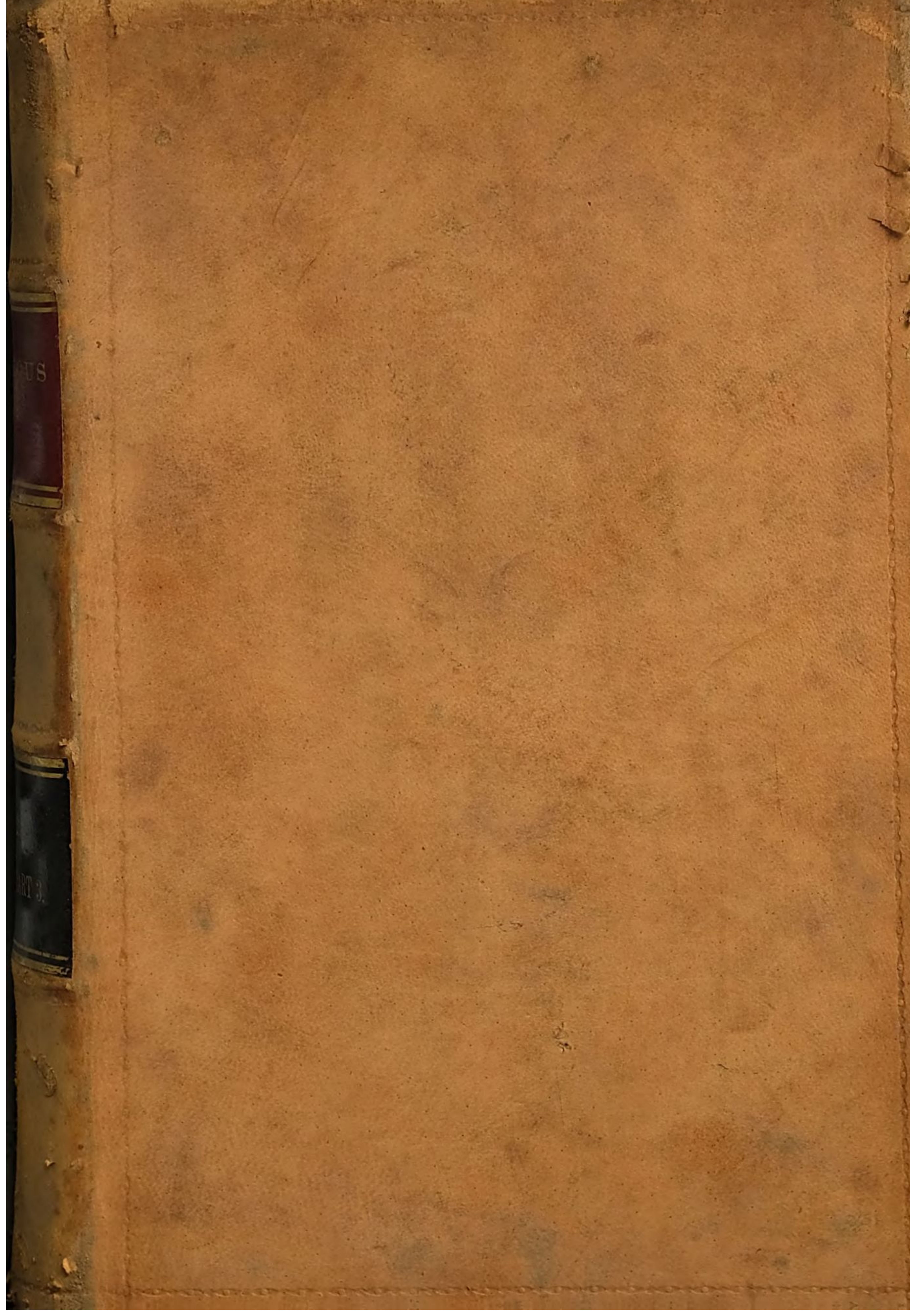




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Proceedings

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TO THE

MISCELLANEOUS DOCUMENTS

OF THE

HOUSE OF REPRESENTATIVES

FOR THE

FIRST SESSION OF THE FORTY-EIGHTH CONGRESS,

1883-'84.

IN FORTY VOLUMES.



WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1884.



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TESTIMONY

TAKEN BY THE

COMMITTEE ON EXPENDITURES

IN THE

DEPARTMENT OF JUSTICE.



WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1884.

EXPENDITURES IN THE DEPARTMENT OF JUSTICE.

WASHINGTON, *May 8, 1884.*

ADDISON J. BROWN sworn and examined.

By the CHAIRMAN :

Question. Please state your age, residence, and occupation. —Answer I am thirty-eight years of age; I reside at East Moravia, Pa.; I am a farmer.

Q. State whether you were at any time a deputy marshal in the western district of Pennsylvania.—A. I was.

Q. During what time?—A. I was appointed in 1880.

Q. How long did you serve?—A. I served until 1882, but I had acted in the capacity of a deputy marshal for nearly three years prior to that.

Q. During the three years prior to that, in what way did you serve as a deputy?—A. I was serving writs for the Roberts Torpedo Company, and was recognized by the office as a deputy—a special.

Q. Who appointed you to perform that service?—A. I cannot tell you whether I was appointed or not, but I was employed by a man named Thomas, who was an agent for the Roberts Torpedo Company.

Q. Did you serve the processes of the courts?—A. Yes, sir.

Q. From whom did you receive the writs?—A. I received them from Mr. Thomas. At that time I was not acquainted with Mr. Hall at all.

Q. Who is Mr. Thomas?—A. Mr. Thomas is an agent for the Roberts Torpedo Company and attends to that part of the business; he is in their employ.

Q. Did he have any official Government position?—A. No, sir; not at all that I know of.

Q. What kind of writs did you serve?—A. Chancery subpœnas, preliminary injunctions, and injunctions and subpœnas for witnesses. During that time I also collected some executions.

Q. In what manner did you sign the papers?—A. I signed as a deputy, "John Hall, U. S. marshal, per A. J. Brown, deputy."

Q. Do you say that you had no authority from Marshal Hall?—A. I never had met the gentleman at that time to my knowledge; I knew him by sight.

Q. Had he given you any written or verbal authority to act for him?—A. None whatever.

Q. What was the extent of the business that you performed there as a deputy?—A. In 1878 the business was quite large. I cannot tell you the exact number of suits or writs, but I was quite busily employed.

Q. In what way did those writs and papers come into your hands?—A. They were given to me by Mr. Thomas, and in one or two instances by Mr. Roberts himself, and sometimes, if I recollect right, they came to me directly from the marshal's office.

Q. Who forwarded them?—A. The marshal or his clerk; they came from the office; I don't know who sent them.

Q. Who paid your fees?—A. Mr. Thomas.

Q. Did you get any fees for serving court process?—A. Yes, sir; those are the ones that I am speaking of. He paid me \$2 a writ, and I paid my own expenses.

Q. Did you make any charges on the papers for expenses?—A. No, sir; I simply made my return, showing that the papers were served on the proper person, either by leaving them at the residence, or by personal service.

Q. Did you render any account for those services?—A. I always rendered it to Mr. Thomas.

Q. That was the account for \$2 for each writ?—A. Yes, sir.

Q. Did you render any other account?—A. No, sir.

Q. Did Mr. Hall pay you anything?—A. At that time nothing. I had no business with Mr. Hall until 1882.

Q. How were you employed after that?—A. After that I worked directly for Marshal Hall, and served the same papers. Then I got two-thirds of the legal fees, which I found to be much more profitable.

By Mr. VAN ALSTYNE:

Q. To whom did you send those subpoenas and writs while you were working for Mr. Thomas?—A. I turned the papers over to him, and he paid me the money.

Q. What he did with them you don't know?—A. I do not know what he did with them. I suppose he sent them to court.

By the CHAIRMAN:

Q. What was the nature of the court proceedings against the parties that you served?—A. They were sued for infringement of patents and the usual chancery subpoena was issued first. Sometimes that was accompanied with a motion for a preliminary injunction; frequently the preliminary injunction was granted and then a perpetual injunction; then a master's notice, and frequently subpoenas for witnesses.

Q. Can you explain how the court processes were issued—whether the names were inserted in them or whether they were issued in blank.—A. Oh, they were issued directly to the parties. The Roberts people would lodge the information and the clerk of the court would make out a regular chancery subpoena.

Q. In the case of an injunction, were any of the names of persons to be served left blank?—A. No, sir. There were many subpoenas for witnesses that were issued by Mr. Gamble that were issued in blank; that is, the seal of the court was put on and his signature, but no term and no number—just his name and the seal of the court. But those were subpoenas for witnesses.

By Mr. VAN ALSTYNE:

Q. Who was Mr. Gamble?—A. Mr. Gamble was the clerk of the court.

By the CHAIRMAN:

Q. Were those subpoenas issued by him as clerk, or as a United States commissioner?—A. As clerk.

Q. You had blank subpoenas, then, issued by the clerk, leaving you to insert the names of the parties when you found them?—A. Yes, sir. But those, you understand, were subpoenas for witnesses; the parties were not principals in the cases at all.

Q. In the injunction proceedings and in the summonses for defendants you found the names inserted in the papers when they came to you?—

A. Oh, yes; always. They were always correct and issued properly.

Q. Do you know whether they were inserted by the agent of the torpedo company or whether the papers came from the court in that way?—

A. I think they came directly from the court.

Q. Do you remember how many cases there were that you served as agent of the torpedo company?—A. I cannot say exactly. There were a great many more services than there were suits, but in 1878 I was very busy the whole year; I did nothing else than just travel from one district to another.

Q. Do you know how many cases there were?—A. No; I do not.

Q. About how many?—A. I presume that I made 500 services in 1878, but that would be only an estimate; I do not know exactly.

Q. Were you entitled to \$2 for each?—A. Yes, sir; \$2 for each.

Q. Did anyone pay you for the services?—A. Mr. Thomas always paid me.

Q. Did he pay you in full?—A. Yes, sir; with one exception. My contract was that I was to receive \$2 for each paper that I served. A question arose about one lot of papers which he issued, in which there were a master's notice and a motion for a preliminary injunction served with the chancery subpoena. Mr. Thomas claimed that they all being served at the same time I was not entitled to pay for that. I claimed that I was, and that was the way that I got acquainted with Marshal Hall.

Q. What was the difference between the amount of your claim upon the torpedo company and the amount which they allowed you?—A. They paid me \$850. That was all they had refused to pay. I went to Marshal Hall and asked him if he knew anything about it, and he said he did not; that he had not employed me; that I was employed by the company, and that his contract with them did not admit of any third party; that is, he gave them the papers to serve, and he had some arrangement with them, and they were to get the papers served.

Q. What arrangement did he say he had with them?—A. He did not say. I knew nothing whatever about that. But when he found that I was determined to get the money, he telegraphed for them, and they came down and paid me \$850, and then Marshal Hall gave me an appointment as deputy.

Q. What was the basis of your suit against the company?—A. That was for services rendered three years before that—in 1874.

Q. Were you acting at that time as a deputy marshal?—A. No, sir; I was acting as an informer, or a detective, or a spy, or whatever you choose to call it.

Q. For whom?—A. For the Roberts Torpedo Company.

Q. Did you bring the cases to the notice of the United States authorities?—A. I furnished the information to the agents of the company.

Q. Were suits commenced and brought to trial?—A. Some were, but many of them were not; from the fact that Mr. Roberts surrendered his patent at that time in order to have it reissued, and that cut out many of the suits.

Q. How much did you claim at that time?—A. I think the difference between Mr. Roberts and me was something like \$21,000.

Q. How long a period did that claim cover?—A. I worked just two months, October and September, 1874.

Q. And in that time did your fees amount to that sum?—A. Yes, sir; according to our contract.

Q. What was the contract?—A. I have a copy of it with me here. The witness produced and read the paper as follows:

Memorandum of agreement made this second day of August, 1874, between Roberts Torpedo Company and A. J. Brown, to wit: The Roberts Torpedo Company agree to pay to said A. J. Brown \$10 for the report of each party buying, selling, handling, or using torpedoes in oil wells other than the Roberts patterns; said Brown to receive one-half of the amount at the time of making the report, the balance when proven, or any of the parties may settle for the same. The Roberts Torpedo Company further agree to pay A. J. Brown \$10 for each torpedo proven after the first one and \$20 for each torpedo put in after the parties have been enjoined.

By order of E. A. L. Roberts.

LEVI MASON,
Agent.

Q. Were there proceedings pending in the United States court during this time in regard to the cases that you were then making service in?—A. Many of them had not been settled. There were a great many of the cases that suits were brought in immediately at the time the reports were made, but there were some that they never brought any suits in, for some reason that I do not know; but I was told it was on account of the surrender of the patent and the reissue, which had cut them out.

Q. How many cases do you say you discovered and worked up in those two months?—A. I forget the exact number, but at \$10 and \$20 each they amounted to about \$21,000.

Q. What did you do with the parties against whom proceedings were instituted?—A. I did nothing whatever. My work was done after I made my reports.

Q. What was the nature of the reports?—A. I discovered that those men had been using torpedoes different from the Roberts patent. You observe that the contract says any man "buying or selling," so that if a man bought a torpedo, and if I reported it, that settled the business so far as I was concerned, except that I had to prove the case when the suit was brought to trial.

Q. How many cases were instituted in pursuance of the reports you made?—A. That I could not tell you without referring to the record.

Q. What is your estimate of the number?—A. I presume that suits were brought in about one-half the cases.

Q. Were there compromises in those cases?—A. That I do not know. In fact, the Roberts Company were very particular that I should not get at those facts.

Q. For what reason?—A. For the reason that they did not want to pay me.

Q. Have they paid you?—A. They have now.

Q. How much did they pay you?—A. They paid me \$2,500 three years ago, and I think at the time I made the reports they paid me about \$1,200, making about \$3,700 altogether.

Q. Is that all that you received under your contract?—A. Yes, sir.

Q. Were not the company responsible?—A. They were, and I brought a suit, but I found that the statute of limitations had nearly or quite cut me out, and it was a question whether it had or had not done so, and I thought it was better to take that amount of money than to stand a fight.

Q. Do you know how many cases were instituted, or could have been instituted, from the information you furnished?—A. No, sir; I could not tell you that exactly; but if I was at home I could tell you the exact number, as it is in my bill of particulars. The reason I cannot tell you now is that there were many of the parties that had ten or fif-

teen torpedoes, so that that would limit the number of parties—would reduce the number materially. I should judge that there were in the neighborhood of two hundred and fifty or three hundred of them.

Q. What was the nature of the proceedings instituted in the United States Court in those cases?—A. Simply a suit in equity, and most of the Roberts cases were allowed to drop after the chancery subpoena was issued.

Q. What was done in the way of compromising those suits by the Roberts Company?—A. That I cannot tell you; from the fact that there were but very few entries made on the docket at Pittsburgh.

Q. How many?—A. Possibly 15 or 20, or perhaps more; but there were many of the parties who settled to my knowledge that the records at Pittsburgh did not show anything about.

Q. State what you know with regard to the returns made to the court of costs that should have accrued in those cases, and should have been collected by the marshal for serving the court process.—A. Do I understand you to want me to state what the marshal's returns were?

Q. What his returns were and what the facts were?—A. Of course I cannot tell you exactly what the facts in the cases were, but I know that if you go back over the term of marshals holding that office nine and a half years, according to his returns the gross earnings of the office were only \$70,000; the office was not self-sustaining except in the year 1878; in that year he turned over to the Government \$143.70. That was all the money that he paid to the Government during that nine and a half years, according to his own sworn statements.

Q. Where were those sworn statements made? Do you mean his emolument returns?—A. Yes, sir; his emolument returns, which I examined in the Treasury Department two years ago.

Q. What should have been returned from that office during that period, according to your knowledge of the business?—A. Well, I have a very poor idea of what there should have been. Of course I have a pretty good idea of what his earnings would have been in the Roberts torpedo cases, and I considered that the actual costs in the Roberts business alone would have been more than \$70,000.

Q. Upon what do you base that opinion?—A. I think so from the simple reason that of all the records in the marshal's office that I have ever examined I have failed to find the first one that was correct.

Q. What were the discrepancies that you discovered? Please state at length what you know about that matter.—A. Well, for instance, there was one suit that was brought in 1876 that went through the full process of the court and the execution was issued and collected. The marshal's costs, as figured up on the execution—I served it myself and I collected it—amounted to \$142; and then for collecting the execution there was \$53. The marshal's docket shows that his costs in that case were something like \$63. I was very much surprised on looking over his emolument sheets to find that the first return of the Roberts torpedo business that I could discover was in the year 1881; it was ignored prior to that time. The names of none of the deputies who served those processes were mentioned in the returns, although I believe the marshal is required by law to swear to how much money has been earned by the different deputies and special deputies. Giving the names of all the deputies that ever worked for Mr. Hall, his emolument sheets show only eleven, and they show that he paid those deputies \$17,000. Now, his own son was one of those deputies, who received over \$12,000, leaving the remaining \$5,000 for the other ten deputies. The only return that he has ever made in regard to Mr. R. K. Campbell, one of

the prominent deputies, is something like \$112 or \$113, and that only for one year. Mr. Campbell's name was never mentioned elsewhere that I could discover, and I went over the emolument sheets very carefully.

Q. What office did he hold?—A. He was a deputy marshal.

Q. And you say you could not find his name in the emolument returns?—A. Only for some \$112 or \$113—in one year.

Q. How much money do you say went into his hands?—A. I don't know anything about how much he was paid, but I know that he was a deputy marshal for six or seven years.

Q. What was the name of the marshal's son?—A. J. Ad. Hall, I believe, is his signature to the court process.

Q. Where does that son live?—A. At Little Washington, Pa.

Q. How much do you say he was paid?—A. Nearly \$13,000.

Q. Covering how long a period?—A. I forget the exact number of years, because I was not connected with the office at that time, but he was in there five or six years. Mr. Perkins could probably tell you better. I wish to call the attention of the committee to the fact that Mr. Hall in his sworn returns says that he never paid but \$17,000 to his deputies during his term of office, and that his own son got over \$12,000 of that, leaving only \$5,000 for the rest of the deputies.

Q. How many were there?—A. He reports eleven, but there are a great many whose names are not mentioned in his returns. I went to work myself in 1878, and his emolument returns bear my name for the first time in 1881.

Q. What did you discover in the entries with reference to yourself as a deputy and your earnings?—A. I discovered that I had been ignored up to 1881; that is, for two or three years I had not been recognized as a deputy, nor any account made of the amount of business that I had done, which was pretty large. In fact I don't know of any way that Mr. Hall could have made those returns and made them correct. For instance, if he gave Roberts 50 per cent. and Roberts got the processes served for \$1 apiece, the question would arise in my mind, which was the deputy, whether Roberts or the man that served the papers. If it was the man that served the papers, then the marshal could not swear that he had paid him 50 per cent. when the man got only 10 per cent., and he could not swear that Roberts was the deputy because the name of the third party would be on the writs. I give it up as a conundrum, and I think the matter was ignored altogether.

By Mr. VAN ALSTYNE:

Q. State in this connection what the statutory fees are for the service of those various papers?—A. Prior to 1880, as I said before, it was \$2 a writ; that is what I got. After that I received $66\frac{2}{3}$ of the actual fee.

Q. That was the arrangement between you and Marshal Hall?—A. That was the arrangement between me and Marshal Hall; after I was appointed deputy the business was all done through the office; there was no outside party known. I recollect one case in particular where Mr. Roberts's man came to me and requested me not to make the service, as the case had been settled. We were not very good friends, and I was not disposed to recognize him as having any authority in the matter, and I went ahead and served the papers. The defendant was very much surprised, and showed me the receipts that he had taken from Roberts.

Q. Did you understand from your interview with the marshal that he farmed out this privilege of serving papers to a special deputy for a consideration?—A. I did, sir. I understood that; but what I was going

to say was that they had received from these men \$50 for the infringement and \$40 for the costs of court. Possibly I have got the figures reversed; it may be that they got \$50 for the costs, and \$40 for the infringement, but I know they got \$90, all told.

By the CHAIRMAN:

Q. Who got that \$90?—A. Mr. Roberts. He had settled with these men, and had got, as I have said, \$50 for the infringement of the shot and had charged the parties \$40 for the costs of court, and they paid it and took his receipt. I returned those papers in the case to Mr. Hall and told him that this man Roberts, or rather his agent, had requested me not to serve the papers in the first place, and then, afterwards, had requested me not to make any return, and was very indignant because I had served the papers. Mr. Hall said, "Well, you had better make no return; just return it n. e. i." (*non est inventus*). I said, "No, sir; I cannot do that; but if you *order* me not to make any return I will not do it." I left the writ without making any return at all, and I afterwards discovered that Mr. Hall had written on the back of the writ, "Returned at the request of the prosecutor," and had signed his name, "John Hall, U. S. marshal." The costs in that case were \$1, and the writs were served—I served them myself—and those men paid \$40 for costs of court to Mr. Roberts. I cannot give the number of the case, but I can refer you to a gentleman whose character is above reproach, and who, I suppose, will be glad to furnish you the facts.

Q. Who are the gentlemen?—A. The name is Mitchell. I would have to look over my papers to give you the term.

Q. That is one case that you refer to?—A. That is one particular case that came to my knowledge.

Q. Have you examined Mr. Hall's emolument returns?—A. Yes, sir; very carefully, in the Treasury Department.

Q. Did he make return of the fees collected in those torpedo cases as a part of his emolument returns?—A. No, sir; I could not find any returns that I could trace, as I said before, up to 1881, from the simple reason that all the deputies who did that class of business were ignored in the returns. Whether he embraced that in work that he had done himself mainly or not, I could not tell.

Q. You knew that he did not do the torpedo business personally?—A. Yes, sir; I knew that it was a sort of a general jobbing business. I presume there were twenty-five different men that served those processes the same as I worked on them for two years. I know one man that was appointed a deputy in 1874, and remained a deputy, I think, until about 1880, and his name does not appear in the emolument returns.

Q. What is his name?—A. Beardsley.

Q. Was he recognized as a deputy marshal?—A. Oh, yes, sir; he was appointed in 1874.

Q. What did he do in regard to this service?—A. He served the same papers that I had served, only his work commenced prior to mine. At the time I was serving these papers, in 1878, 1879, and 1880, I served in only one district, and they had several others that were serving besides me.

By Mr. VAN ALSTYNE:

Q. The same class of papers?—A. Yes, sir.

Q. Did this man Beardsley do a large business of that kind? Did he serve many papers?—A. Yes; I think he did.

Q. A very large number?—A. I think so.

Q. How extensive was that business in behalf of the torpedo company in that region during those years, so far as you know?—A. Mr. Hall's docket shows something like 1,800 cases during his term—that is, 1,800 suits, but oftentimes there were ten or eleven writs in one suit. I was surprised that his docket did not show more.

Q. Did you examine the emolument returns to ascertain whether in that number of suits return had been made of the \$40 of fees which should have been collected as the costs of court?—A. I could not tell. The nature of those returns is such that you cannot pick out any one item. For instance, I think that I earned that year about \$900; that was the last year that Mr. Hall was in, 1882, and he put in my voucher, but he never paid me anything for that writ. I told him that I should have had it, but he said, "No, I do not think you ought, on account of the nature of my agreement with Mr. Roberts." Consequently I did not insist upon it.

Q. What was the basis of the \$40 costs that each defendant paid on the settlement of his case?—A. Oh, that was not a general rule. I spoke of that in one particular case.

Q. What was the rule?—A. The rule was, just as much as they could get—just according to the man they were dealing with.

By Mr. VAN ALSTYNE:

Q. What would be the general average in that class of cases?—A. That I do not know, because I had nothing to do with the settlements. All I know is what different parties would tell me from time to time.

By the CHAIRMAN:

Q. What did you learn that those parties were being taxed for costs?—A. Well, I don't know as I have ever heard that in any particular case outside of the one I have mentioned. They would generally settle the thing together, the costs and the infringement, according to the number of torpedoes the party had put in. For instance, if you had been torpedoing for several years in so many wells, they would make a general estimate and settle for so much, and you would agree not to use any more.

Q. Were those suits for infringement tried in the courts or settled on the ground?—A. They were tried in the courts, all those that came to trial.

Q. What was done with the others? Were they settled on the ground?—A. I cannot say, because I do not know. I know that the record shows hundreds of cases commenced—the case commenced and the chancery subpoena issued; that is all the court record shows, and it is a question of doubt what was done with the cases.

Q. Do you know what *was* done with them, as a rule?—A. No, sir; I do not.

Q. In your own cases you do?—A. My own cases were settled, many of them, after the chancery subpoena was issued.

Q. How were they settled?—A. They were settled by the defendants paying whatever they could agree upon. In some few instances notes were taken.

Q. You mean that the defendants settled on the ground with the agent of the torpedo company?—A. Yes, sir.

Q. Then he returned the papers to the court or did not return them, as you have stated?—A. Yes, sir. I presume there was not a case where the defendant went into court to make a settlement.

Q. Then the torpedo company had the power of the process of the

court to enable them to settle with the parties infringing their patents?—A. Yes, sir.

Q. And they used that means throughout the time you have mentioned for the purposes you have indicated?—A. Yes, sir. Another peculiar thing I discovered in Mr. Hall's method of transacting business was that he never paid any attention to any of the writs in any of the cases except the chancery subpoena and the injunction. Subpoenas for witnesses, master's notices, and motions for preliminary injunctions, although served by a deputy and his name put to the papers, as he expressed it to me, "to make it a legal service," were always completely ignored, so far as he was concerned.

By Mr. VAN ALSTYNE:

Q. There was no mention made of them in the records?—A. Not any. He claimed that he knew nothing about it, because those writs were not sent to his office to be sent out to be served. I don't know that Mr. Hall and Mr. Roberts ever had any understanding or any bargain. I have been told by good authority that Mr. Hall allowed Mr. Roberts to take those writs from his office and get them served the best he could, and allowed him 50 per cent., and Mr. Roberts sent A, B, or C out to serve them just upon such terms as he could make with them. Some served for \$1 a paper, some for \$2, and some for so much a month.

By the CHAIRMAN:

Q. But Mr. Roberts always collected from the defendants the whole amount of costs that the case would bear, did he?—A. Yes, sir; so far as I know. Of course, I don't know anything on that point only about this class I have spoken of, because I had nothing to do with the others in the settlements.

Q. What was the general basis of the settlement with those different defendants, so far as you learned it?—A. I don't think they had any general price fixed. I think they settled with a man for anything they could get.

Q. Did the settlement always include the court costs?—A. Yes, sir; I think there was always a good round sum set for the costs of court; \$40 would be a good round sum for costs.

Q. Do you know what items constituted the costs of court in the case you have mentioned?—A. I know what the costs should have been in that case; they should have been about \$23, the legitimate costs, according to Mr. Hall's book. According to Mr. Hall's docket, his charge was \$1, and I presume that Mr. Gamble's docket fee and other things would amount to about \$4. I presume that, as the record stands to-day, the legitimate costs would be about \$5, but they had collected \$40.

Q. How extensive was that business of collecting \$40 as costs when the records of the marshal's office showed only \$5, for instance?—A. Well, I know of no other case besides that one. I know, however, that they always collected the costs of court wherever they could.

Q. Did you examine the emolument returns as you have stated?—A. Yes, sir; but that business was not embraced there. As I say, the Roberts torpedo business was ignored in the returns, so far as I could discover, up to 1880.

By Mr. VAN ALSTYNE:

Q. There was no evidence of anybody having done anything in that line?—A. No, sir; and all the deputies that had done the work up to that time were completely ignored in the record.

Q. They should have been embraced in the marshal's return, should

they not?—A. Yes, sir; I think so. He swears that the return is true and correct. Now, I failed to discover one item that I considered was true and correct. The emolument sheets are open to you, of course, and perhaps you may view them in a different light from what I did.

Q. Did you make any estimate or calculation from the emolument returns of the amounts of fees that the marshal had returned?—A. No; I did not, particularly; but from memory I should say that it did not exceed \$2,500.

Q. How much would the earnings in the torpedo cases really amount to in your judgment?—A. As I said before, I think the whole amount of the torpedo business would be more than \$70,000.

Q. And the marshal, you say, accounts for only \$2,500?—A. I don't think he accounts for much. That business was ignored entirely up to the time I have stated. I think I am the only man that served any of those processes that he made any return of, and that, as I have said, was not until 1880.

By the CHAIRMAN:

Q. Who is Mr. Roberts?—A. Mr. W. B. Roberts is a brother of the original inventor of this torpedo. The inventor is dead. The two together were known as the Roberts Torpedo Company.

Q. Where does Mr. W. B. Roberts live?—A. He lives at Titusville, and he is the surviving partner of the firm.

By Mr. VAN ALSTYNE:

Q. Is his sole business running this patent-right, and making sale of torpedoes?—A. He is also a banker, and he has become very wealthy through the torpedo business.

By the CHAIRMAN:

Q. When did the patent expire?—A. I think it expired in 1882, but possibly it was 1883.

Q. Do you know whether that company owe the Government anything for fees that they have not paid yet?—A. I think they do. Of course, though, I have no means of knowing. I do not know whether Mr. Hall has collected the money and has not returned it to the Government, or whether Mr. Roberts sold out. I don't know anything about that. I only know and state that it stopped somewhere between Mr. Roberts and the Treasury Department.

Q. It has not got to the Treasury?—A. No; it has not got there. One hundred and forty-three dollars and seventy cents has got there. That was in 1878.

Q. When did you give information to the Government of Mr. Hall's transactions in this torpedo business?—A. It will be two years ago next June or July.

Q. State what you did in respect to that.—A. I simply made the statement to Attorney-General Brewster that Mr. Hall's accounts to the Treasury Department were \$200,000 short.

Q. When was that?—A. As I have said, it will be two years in either June or July.

Q. State what was done in reference to the matter.—A. Mr. Brewster was very busy that morning; he had just come from Philadelphia—I had been waiting for him five days—he had just come from Philadelphia, and he said that that was Cabinet meeting day, so that he did not have time to talk with me then, and he wanted to go back to Philadelphia that night, and he referred me to Mr. Brewster Cameron. I went to Mr. Cameron's office, and he was not in, consequently I did not see him.

Brewster Cameron followed me back within ten days to Pittsburgh and told Mr. Hall that a man named Brown had been on here and had reported that he was short. Mr. Hall then turned around and accused me of trying to blackmail him for \$10,000.

Q. State what foundation, if any, there was for that charge.—A. None whatever, sir.

Q. Did you ever ask any money of him?—A. No, sir. I borrowed money from Mr. Hall, and Mr. Hall has paid me all the money that was due me with the exception that there was a question whether I was entitled to mileage in cases where I had traveled to serve writs and could not find the parties. I never received anything for that at all.

Q. Did you ever demand of him, or intimate to him that you wanted, \$10,000, and that if he did not give it you would report his delinquencies?—A. I never did, sir, do anything of that kind; never demanded money or anything else. He alleges that I made that demand in a letter that I wrote to him.

Q. It seems that some one stated that you had asked Mr. Hall for \$10,000 as "hush money," and that Hall said that if he owed the Government anything he would pay it; is that correct?—A. There was never any such talk between us at all. I never demanded any money of him, nor he never offered me any to keep quiet.

Q. State what further transpired with reference to the information you gave the Attorney-General or Mr. Brewster Cameron.—A. That was all. I gave no information, any more than that I made a statement that Mr. Hall was that much short. The Attorney-General referred me to his special agent, Mr. Brewster Cameron, but he was not at home, so I did not see him; and I never saw him from that day to this. The Pittsburg press took up the cudgels in Hall's behalf, and I saw that I could not battle against them and the Department of Justice, too, and I just ignored the thing.

Q. Did you ever ask anything of the Department of Justice or of any of the agents of the Department?—A. I simply asked them what they were paying. I asked them if the old law was still in force by which the informer would get a certain percentage.

Q. The moiety law?—A. Yes, sir.

Q. What did they say to you?—A. They told me it was not in operation.

Q. Did you offer to withhold or to disclose any information in consideration of the payment of any sum?—A. No, sir; I did not.

Q. When you were informed that the moiety law was no longer in force, were you still ready and willing to make a statement on the subject of the management of the marshal's office?—A. I certainly was, or I would not have made the statement broadcast against a Government officer that, in my estimation, he was \$200,000 short in his accounts.

Q. Did you offer to any one connected with the Government to prove that shortage?—A. No, sir; for the reason that I could not get an audience with them. Mr. Brewster, as I have said, was very anxious to attend a Cabinet meeting that day, and after that he had to go back to Philadelphia.

By Mr. VAN ALSTYNE:

Q. When you went to the Attorney-General's office, was it your purpose to communicate to him what knowledge you had upon this subject?—A. Yes, sir.

By the CHAIRMAN:

Q. State what you did say to him; state all that transpired; who in-

roduced you to the Attorney-General?—A. I took a letter from a gentleman who occupies a position in the Treasury Department; I forget now just what the position is, but he was the party to whom I thought it was proper to go to find out whether the Government was paying anything or not for information of this kind. He was unable to tell me, but he wrote a letter to the Attorney-General introducing me and stating that I claimed that Mr. Hall was \$200,000 short. I sent that letter in to Mr. Brewster and he told his attendant to show me in. He simply asked me if my name was Brown. I told him it was. Said he, "You think Mr. Hall is this amount of money behind in his accounts?" I told him I thought he was. "Well," said he, "I have not time to attend to it now. You will have to go and see Brewster Cameron, who is my agent."

Q. Who was the gentleman who gave you that letter to the Attorney-General?—A. I cannot call him by name.

Q. Was he one of the accounting officers of the Treasury?—A. Yes, sir.

Q. What conversation had you had previously with that gentleman?—A. I simply asked him the question whether the Government was paying anything or not. He told me that this moiety law had been repealed, but said that if I would come in the next morning he would find out in the mean time whether anything could be done. I did go in the next morning and then he told me that nothing could be done under the law; that that law had been repealed, but that Attorney-General Brewster had the right to make any bargain with me that he saw fit with regard to the matter, and he sat down and wrote this letter of introduction to the Attorney-General, stating that I claimed that Marshal Hall was that much back in his accounts, and I presented that letter to the Attorney-General.

Q. How did this gentleman know about that; from what you told him?—A. From what I had told him.

Q. What was said between you and the Government officials as to Hall's emoluments?—A. They told me that according to his returns the office had not been self-sustaining; in other words, that it never had paid Mr. Hall the \$6,000 a year that he was entitled to and anything over, and that they thought it strange that that should be so. And when I examined his emolument returns I found that statement to be true with the exception of one year, 1878.

Q. Was your opinion as to Marshal Hall's accounts confirmed by your examination of those returns?—A. Yes, sir; and my statement was made immediately the next day after examining the sheets, from the fact that my knowledge of the business and my examination of those sheets confirmed to my mind the idea that Mr. Hall was that far behind.

Q. Did you have any conversation with Mr. Bayne, your Representative?—A. Yes, sir.

Q. Did he offer to introduce you to the Attorney-General?—A. He introduced me to Judge Lawrence, the Comptroller, but that was only for the purpose of my getting permission to examine those emolument returns.

Q. What was said about the matter to Judge Lawrence? Did you make any statement to him?—A. None, at all; I simply requested that I should be allowed to examine the returns.

Q. Did you inform Mr. Bayne in reference to this defalcation or shortage of Marshal Hall?—A. No, sir; not as to any particular amount. I told him that I was surprised at the condition of those emolument returns. Possibly I might have mentioned the amount, I would not say

for certain, but I think not, because I had no reason for talking to him about it.

Q. Did you inform him as to the nature of the business that was being transacted by the office?—A. No, sir.

Q. Did Mr. Bayne offer to assist you in the matter?—A. Nothing more than in getting at the emolument returns.

Q. He showed a willingness to assist you in getting at those returns?—A. Yes, sir.

Q. Did he offer to introduce you to the Attorney-General?—No, sir, he did not.

Q. Do you know whether Marshal Hall had anything to do with bringing about a settlement between you and the Roberts Torpedo Company?—A. I do not think he did, sir, at all.

Q. Did Mr. Hall ever ask you to postpone your suit against the Roberts Company?—A. No, sir, he did not. He told me that I had better go to Crawford County and commence the suit under the contract before the six years had expired, which you will find by examination was nearly up. I think I had just one day to spare. He said that he did not think Mr. Roberts would be in Pittsburgh until after the six years was up. I waited until the very last day.

Q. Do you know whether Mr. Hall has offered to pay any money to the Government recently in settlement of his accounts?—A. No, sir; I know nothing about that at all; I have not seen Mr. Hall in two years.

Q. Do you know what Mr. Hall's financial condition is?—A. I do not.

Q. Do you live in his vicinity?—A. I am living about 15 miles from where he lives.

Q. Do you know who his bondsmen are?—A. I do not.

Q. Did you ever have any conversation with Hall himself in reference to his accounts?—A. Yes, sir; I had a bet with Mr. Hall at one time. I offered to bet a suit of clothes against a plug hat that he couldn't find any two entries in his docket in the Roberts cases that were correct; and I requested him to turn to any two that he was a mind to. I took down the docket and turned to two just as it happened, went over to the clerk's office and got the writs and brought them in just to convince him; and in one case he was \$100 short and in the other case something like that of \$53. But I never got the hat.

Q. Did he show you any case in which the entries were correct?—A. No, sir; he did not.

Q. When was this conversation?—A. Three or four years ago; that was when I went in there as a deputy.

Q. How long after that did you remain as a deputy in his office?—A. Nearly two years.

By Mr. VAN ALSTYNE:

Q. In the two cases to which you called his attention did he make any explanation?—A. No; he did not. He said there was a mistake somewhere; I thought so, too.

Q. Did you ever bring those matters to the attention of the district attorney?—A. No, sir; I never did.

Q. Did you ever have any conversation with District-Attorney Stone about it?—A. No, sir.

Q. Or with his assistants?—A. No, sir. Well, I think I did, too. I think that Mr. Woods and I talked it over, because he made out my bill of particulars.

Q. What conversation did you have with Mr. Woods with regard to

these accounts?—A. It has been so long ago that I cannot repeat it word for word, but it was mutually understood between the two that things were transacted in a very peculiar way. Mr. Woods didn't tell me that he knew that Mr. Hall was a defaulter, nor did I tell him; we simply talked the matter over. Mr. Perkins and I have done the same thing.

Q. Did you ever have any conversation with Mr. Perkins with regard to bringing that suit against the torpedo company?—A. Yes, sir.

Q. What was that?—A. Well, Mr. Perkins and I entered into an agreement at one time by which he was to receive 20 or 25 per cent. for collecting it. In the first place Mr. Perkins took me to Mr. Stone; he told me that he thought he would be a very good man to consult and that he could effect a settlement through Paterson. Mr. Stone saw Paterson and he communicated with Mr. Roberts, or Thomas, or some of those parties, and the supposition was that we could get a settlement in some of those cases; but after Paterson had corresponded with the Roberts Company he told me that it was no use; that they would not do anything; that they claimed they had paid me all that they owed me.

Q. Did you make any contract with Mr. Stone with regard to the case?—A. I did.

Q. What was the nature of it?—A. That he was to collect my claim at 20 per cent. or 25 per cent., and then after we went into Crawford County he withdrew and I employed some other attorneys. Then I made another contract with Mr. Perkins, offering him 20 or 25 per cent. if he could bring about a settlement. I think that contract was drawn up by Mr. Adams. I know I got a copy of the contract, but he never did anything.

By Mr. ADAMS:

Q. Will you produce the contract?—A. Yes, sir; I can produce a copy taken from a letter-press which they had carried with them. I would not say positively that Mr. Adams drew that contract, but my impression is that he did.

Q. What was the substance of it?—A. Well, for his assistance, such as he could render, in helping me to collect that bill, he was to receive 20 or 25 per cent.

By Mr. VAN ALSTYNE:

Q. Was Perkins at that time a Government officer?—A. Yes, sir.

Q. What was he?—A. The same as he is now.

Q. This claim was for your fees as agent of the torpedo company?—A. Yes, sir; the old affair.

Q. And for which you claimed something like \$22,000?—A. Yes, sir.

Q. Has any Government officer called upon you, since you made a statement to the Attorney-General, to furnish any information upon that matter?—A. No, sir; they have not.

Q. Has the district attorney?—A. No, sir; no person. The fighting has been done principally through the press, similar to the statement that is going the rounds now that Mr. Perkins got this cipher book by its being left as collateral security for my board. That has been published in all the papers.

Q. That is not true, you say?—A. Well, I rather think not. I brought a man on at my own expense to try to have that matter straightened out.

The CHAIRMAN. When Mr. Woods was here he left a book with me. Here it is. [Producing it.] I don't know whether you recognize it or

not.—A. Yes, sir; I recognize it. I would like to tell you about the book. I was boarding and was going home with a little sachel, and I could not get the book into my sachel, and I left it with this gentleman and told him that I would like him to keep that book until I called for it; that I might be back in a day, and might not be back in three months. Shortly after this this gentleman moved to Allegheny City. Thinking, perhaps, that I did not know where he had gone, or wanted my book, he told me that he had given it to Sam Woods. He also told Mr. Perkins that Woods had the book. Sam told me two years ago that he had the book, and I asked him to bring it over, and he said he would. Mr. Perkins told me two years ago that Mr. Woods had the book and I had better get it. Well, I didn't place any stress on the book, because there is nothing in that that has any bearing upon this case; it is my own private diary. I am very much obliged to Mr. Perkins, though, for giving some of it to the press; it is about the way he does business. I don't want to get personal, but I am very sorry not to have met Mr. Perkins under other circumstances.

By the CHAIRMAN:

Q. Why did you keep this book in cipher?—A. Simply for my own amusement. It is not so very hard.

Q. Does this book contain any entry in connection with the business of the torpedo company?—A. Not one, with the exception that in the back part of it I copied two or three letters. There are more pages in the book than there are days in the year, and after I got to December 31 I copied in cipher some of my letters as I received them at that time. I never received a letter in cipher in my life, and there is nothing here that I am aware of that I have any recollection of that is either from Mr. Hall or Mr. McDonnell, although some of their correspondence may be copied in here; there is nothing that I am not willing shall be laid before this committee, or Mr. Perkins may give it to the newspapers if he sees fit. He is something of a newspaper man.

Q. Did you receive any letters from Mr. Hall which are there in cipher?—A. Never. Well, I don't know; it has been so long I may have copied in something. Mr. Perkins can probably tell you better than I can; he has had this book for two years.

Q. Turn to page 379.—A. I find a signature here of "John McDonnell." I can explain that to you.

Q. Do you see Mr. Hall's name there?—A. Yes, sir; that is correct, I presume. I do not see anything in it that is out of the usual way, or that requires being kept in cipher.

Q. It simply shows that he had sent you some papers for service?—A. Yes, sir. You understand that part of my district was over 200 miles from Pittsburgh, and I would go out, and any new writs that came up he would send me by express and then write me to that effect. I recollect requesting Mr. McDonnell to tell me if there had been any papers or injunctions issued, and he did it.

Q. Who is Mr. McDonnell?—A. He is the deputy clerk, as I understand, in the circuit court.

By the CHAIRMAN:

Q. This letter from Hall appears to have been received in 1880?—A. Yes, sir.

Q. Were you then a regular deputy, or were you also acting as the agent of the torpedo company?—A. I was then working for Mr. Hall. I think I was appointed for him in June, 1880.

Q. Then at that time he was sending the injunctions and other papers

directly to you?—A. Yes, sir; there was no middle man between us at that time.

Q. Well, it seems that that book was for the purpose of entering the correspondence that you had with regard to the business you transacted?—A. This that you have pointed out is October 12, 1880; that is the date of that letter.

Q. Who was John Gleason?—A. Mr. Gleason was Mr. Hall's clerk.

Q. These letters are unimportant, except that they show that that book contained memoranda of those transactions?—A. There is nothing of that sort in the book, only, as I say, there are a few letters copied here that I regret very much I haven't got the originals of. These were copied after I got through with the days of the year. The rest is my own private diary and has nothing to do with Mr. Hall or the court.

Q. The letters you received from Hall were not in cipher?—A. No, sir; I can give you a sample of them.

Q. You simply transferred them into cipher?—A. Yes, sir; for my own amusement.

Q. Why did you desire to keep them in that way instead of the original?—A. That is a question that is very hard to answer. Probably I was foolish, but I had as much right to do it as anybody else. Of course I had no idea that that book would be brought before a body of men like this. I had no idea that Mr. Perkins would neglect his duty for two years. Here is a sample of my correspondence with Mr. Hall [handing some letters to the chairman]. I almost always destroyed them as fast as I received them. Now those would look very mysterious if they were put in the book in cipher, and perhaps they are.

Q. These are merely instructions in sending you papers?—A. Yes, sir; that is all. And all that I had from him were the same.

Q. You were at that time acting as one of his deputies?—A. Yes, sir. This McDonnell letter I don't think would come under the head of any colluding, as his friend Perkins expresses it, any conniving between me and Mr. McDonnell.

Q. You had no arrangement with Mr. Hall as to the costs which should be collected?—A. Most emphatically no, sir.

Q. You had arrangements as to how much you should be paid in the torpedo cases?—A. Yes, sir. But not with McDonnell nor with any of those parties. That was with Mr. Thomas. He is a man that could give you information about the contract between Mr. Hall and Mr. Roberts. He did most of the business; Mr. Roberts did very little.

Q. Who is Mr. Thomas and where does he reside?—A. He is the mayor of Titusville to-day. He married the widow of the deceased Roberts.

Q. He is a brother-in-law to the president of this torpedo company?—A. Yes, sir; he is the man that has always brought the suits, since 1876 to my knowledge, for the Roberts Torpedo Company. All the men that made those *informations* returned them to him.

Q. Then Mr. Thomas should know whether the costs were paid to Marshal Hall in all those cases?—A. Yes, sir; he knows all about it, because I know in several cases where persons would go to see Mr. Roberts, and he would tell them to go and see Mr. Thomas and see what settlement they could make with him.

By Mr. VAN ALSTYNE:

Q. What is Hall's business now?—A. I don't know whether he is farming or not. He has a couple of farms there, I believe, but I don't know whether they are his or not.

Q. Are they in the vicinity of Pittsburgh?—A. They are at Little Washington.

Q. Do you know anything about his physical condition; whether he is a sick man or a well man?—A. I do not. I saw that piece in the papers some time ago, that he had to be watched, but I do not think there is anything in it.

Q. When did you see him last?—A. I have not seen him for two years.

Q. Was he an apparently well man then?—A. Oh, yes, sir. According to his own statements, this doesn't worry him any. He claims that the Government owes him \$1,200. I presume that the \$143 that he turned in in 1878 was an overpayment, and that perhaps interest and other things from that time to this will make up the \$1,200. I know that \$143 is all that he has ever turned over to the Department.

By the CHAIRMAN:

Q. In what way do you estimate the defalcation to be about \$200,000?—A. I knew about how many torpedo cases there were; I knew about how many bank cases there were, and I went on that basis. In saying that it was \$200,000, I calculated to put it low enough. I calculated in my own mind that it would admit multiplying by two easy enough, and still be below the figure.

By Mr. VAN ALSTYNE:

Q. That would be \$400,000?—A. Yes, sir. I think his own books show that the earnings in the torpedo cases were something over \$30,000; that is according to his docket entries.

Q. And that was a small portion of it, in your estimate?—A. Yes, sir.

Q. Give the committee the basis of your calculations, then, upon which you suppose that he would be short \$400,000. I presume you took some basis upon which to arrive at that conclusion?—A. Yes, sir; I did.

Q. State upon what you based your estimates.—A. Well, there was something over 3,000 bankruptcy cases, and I know it was usual to pay the marshal \$25 down on the start. If he got \$25 in each, every thousand cases would make \$25,000; and if there were 4,000 cases it would be \$100,000. Then if the torpedo business was another \$100,000, and perhaps the other business of the court would amount to another \$100,000. That was about the way I figured it. I never got down and figured it closely, but I made these estimates concluding that I was safe in making the statement and that I would not have to take back water.

Q. Have you examined the records at Pittsburgh?—A. Yes, sir.

Q. And Mr. Hall's emolument returns in Washington?—A. Yes, sir.

Q. You have examined the records of the clerk's office?—A. Oh, no; not particularly; only in a few cases. I had nothing to do whatever with his records.

Q. I mean that in order to obtain this information you looked into the court records in Pittsburgh?—A. Yes, sir.

Q. And into the marshals emolument returns here?—A. Yes, sir.

Q. You were connected with his office, directly or indirectly, for a number of years as a deputy?—A. Yes, sir.

Q. From the knowledge you have had of the business done, and your examination of the records, you have reached the conclusion which you have stated?—A. Yes, sir.

Q. Have you seen anything since to change that opinion?—A. I have not. In fact for two years I have paid no attention whatever to the matter.

Q. And you say you have never demanded any money of Mr. Hall to keep quiet?—A. No, sir; I never have.

Q. Directly or indirectly?—A. Directly or indirectly; and I think that my action ought to satisfy the committee of that from the fact that I came to the Attorney-General and made a statement. I don't think that goes far toward showing me to be a blackmailer.

Q. You have never made any proposition to any officer of the Government authorized to look into these matters demanding consideration for your information?—A. No, sir; I have not. I think Mr. Perkins was the last man that I ever talked to about it, but that was back, I think, two years ago. Mr. Perkins, I know, telegraphed me to come and see him. That was a year ago last October. I was building a house and could not go, and I replied to him that if he wanted to see me he would have to come to see me, and I never heard from him from that time to this.

Q. When did you last see Hall?—A. I think it has been about two years.

Q. Have you been to Little Washington recently?—A. I have been there.

Q. Do you know anything about what amount of property he owns there?—A. No more than as it has been pointed out to me from the railroad.

Q. How much is there of it?—A. He has two farms there. He told me at one time how much there was in those farms—how much he paid an acre. I think he has got a farm, containing in the neighborhood of 150 acres, that cost him about \$200 an acre, and then a smaller farm that cost him something over \$100 an acre. I repeat that as he stated it to me, but that is all that I know about it. The farms may be mortgaged, for all I know.

Q. Has he any business property in the city?—A. Not that I know of. I know there were lots of rumors there that I don't know anything about.

Q. Did he say anything about having any interest in any bank?—A. No, sir. Well, now, hold on. I don't know but he did. I know he was at one time a stockholder in the Penn Bank, of Pittsburgh. To what extent I don't know.

Q. That is all I desire to ask, unless you want to make any further statement.—A. Well, no. I would like to know when I can get possession of that cipher book of mine. I think I have a perfect right to demand that. Mr. Perkins should rectify that statement about the book being held as collateral for my board; I don't know that he made it, but if he did it would be only fair for him to say that that book was not held as collateral for my board.

The CHAIRMAN. I do not think that statement was made before the committee.

The WITNESS. No, I do not think it was.

The cipher book referred to in the foregoing testimony was returned to the witness by the chairman.

WASHINGTON, *May 8, 1884.*

A. A. ADAMS sworn and examined.

By the CHAIRMAN:

Question. State your age, residence, and occupation.—Answer. I am 36 years of age; I am an attorney at law; my residence is Clearfield, Pa.

Q. Have you been in the service of the United States as an assistant district attorney at any time?—A. Yes, sir.

Q. Where, and how long?—A. I was appointed the 19th of December, 1872, and remained in the service until, I think, about the 26th of May, 1875.

Q. Where were you residing during the time you were in the service?—A. I was residing at that time in Pittsburgh.

Q. What was the nature of the duties you had to perform?—A. Well, my duties were varied, under the peculiar circumstances under which I went there. My legal preceptor was Mr. Swope. I had entered his office as a boy, studied law, been admitted to the bar, and then went with him to Pittsburgh. I very seldom assisted at the trial of cases, but I prepared the indictments, made the reports, kept the accounts, and attended to that part of the business of the office almost entirely.

Q. How many assistant attorneys were there during your time in the western district of Pennsylvania?—A. I was the first assistant that was appointed.

Q. Were you the only one then?—A. No, sir; Mr. Thomas Pender was appointed, I think, at the same time. He was appointed as assistant to the United States attorney. There was a distinction made in the commissions that were sent.

Q. What were Pender's duties?—A. His duties at that time were more those of a detective officer.

Q. Was he a lawyer?—A. He was not a lawyer.

Q. What did he do there?—A. I can scarcely answer that question. He was the janitor of the office; he was an errand boy; he was a detective; his duties were those of a general man around the office.

Q. What was his salary?—A. I think it was \$1,200 or \$1,250 a year.

Q. How long did he serve in that capacity?—A. He served in that capacity up to the time I left the office in 1875. I think his commission was dated in January or shortly after mine was.

Q. How long after you left was he still in the service?—A. I don't think he remained in the service after I left there. There was a general change made at that time.

Q. You say they made a distinction—that he was appointed an assistant to the district attorney—not an assistant attorney?—A. That is my recollection; I would not state positively, but that is my recollection of the wording of the letter.

Q. But you know that he was not an attorney?—A. No, sir, he was not an attorney; and my understanding at the time was that Mr. Swope came down and consulted with the Attorney-General with regard to the appointment of assistant United States attorneys for that district; up to that time there had never been any regular appointment, and I received the first appointment. That appointment they decided would be legal, but as to the other they made it an assistant to the attorney; I don't know what the circumstances were, but I think that is all matter of record in the Attorney General's office.

Q. Pender did not perform any services that an attorney would be called upon to do?—A. No, sir; not as an attorney.

Q. Who succeeded him?—A. Mr. Knox.

Q. Was he an attorney?—A. Yes, sir.

Q. Who succeeded him?—A. I think Mr. Cameron.

Q. Was not Mr. Woods in there?—A. Mr. Knox was succeeded by a gentleman whose name I cannot recall now. He was a lawyer, and I knew him, but I cannot recall his name; and then Mr. Woods succeeded him, and after Mr. Woods Mr. Cameron.

Q. Have you a knowledge of the business required to be performed in that district?—A. I had at the time I was there.

Q. State whether, in your opinion, an efficient district attorney, giving his whole time to the Government service, could perform the duties required to be performed in that district?—A. I do not think he could, if the business was of the same character that it was when I was there—the same character and amount as when I was there.

Q. You were there during the time of the bankruptcy proceedings?—A. I was there from 1872—I was there really from 1870, but I got my commission in 1872, and I was there until 1875.

Q. The business was heavier in 1875 than it is now, was it not?—A. At the present time I have no knowledge of what the business is.

Q. Do you know how many attorneys would be required to efficiently perform the business in that district now?—A. I think there ought to be an assistant and either a second assistant or a clerk there.

Q. You think a clerk would answer as good a purpose as a second assistant?—A. It amounts to the same thing.

Q. Do you know anything about the accounts of the marshal in that district?—A. No, I have no personal knowledge of them.

Q. Have you had any conversation with Mr. Hall as to his financial ability?—A. No, sir.

Q. Did he ever give you any information with regard to his property that he owned?—A. No, sir; I don't think that he ever did; I have had conversations with him when he spoke of his farms and stock and matters of that kind, but I do not think anything definite was said as to what he had.

Q. Did he tell you how much he paid for those farms?—A. I think that he did tell me about the first farm—I would not be certain; I have a recollection of his talking about the cost of it, but I suppose that would be a matter of record and could be easily shown; I think he said \$60,000 was the cost of the first farm; he bought the Chartiers farm, as they called it then.

Q. Did he say anything about the other property?—A. No, sir; not at that time.

Q. At any other time did he say anything about it?—A. Never directly to me.

Q. Do you know anything about the suit that Mr. Brown desired to bring against the Roberts Company?—A. Yes, sir.

Q. Please state what you know about it.—A. I think it was about May, 1880; I was in Pittsburgh; Mr. Perkins and Mr. Brown and myself were boarding at a private boarding-house on Eighth street, and Mr. Brown came to me and told me that he had a claim against the Roberts Torpedo Company and against Marshal Hall; he told me that Marshal Hall was a partner with them in the transaction of this business; that they had made a contract under which, if I recollect—and I think I can recollect it pretty clearly, because it rather astonished me—he was to receive as deputy marshal \$2 on each case brought by the Roberts Torpedo Company for infringement of their patent rights, and that Hall and the company were to divide the balance. That was his claim; he said they owed him from \$17,000 to \$20,000. Well, he talked to me about it, and he came in with his figures (I was rooming in the same house, next room), and we sat down and figured and counted it up, and he went on to show up the profits and things of that kind until I got considerably interested in it. He wanted to make a contract to bring suit for certain profits. I was at that time acting as an assistant in the secret service division of the Treasury Department, and I was uncertain as to whether I had the right to make a

contract of that kind, but I drew up a contract, I think in the name of Mr. Perkins or Mr. Stone—Mr. Stone got interested—at any rate, I drew a contract between the parties, which was signed, by which suit was to be brought in Crawford County against the Roberts Torpedo Company to enforce Mr. Brown's contract with them, a copy of which he delivered to me, but I have either mislaid it or was unable to find it to bring it here. The suit, I believe, was brought up there, and afterwards another contract was made. That was about the end of my connection with that case. I left there in the fall. During this time he delivered to me certain papers that I suppose under the subpoena that was sent to me it is my duty to produce, though I don't know whether they have any bearing on the case. They are the original contracts between the Roberts Torpedo Company and their glycerine men. It was simply in connection with conversations with regard to profits and matters of that kind that he delivered the papers; among them, several others, showing what the profits were. This is the only one I could find. [producing it].

Q. Do these papers relate to the Government fees?—A. Yes, sir; this one with the glycerine men relates to Government fees.

Q. Then you say Mr. Brown gave you a number of papers to show the amount of fees that should have been received in those cases?—A. Yes, sir. And during our talk and negotiation he told me that he had in one month served writs in which the fees would aggregate \$14,000. I think that is about the figure. I believe I made a written statement of the whole matter, but I have not seen it since.

Q. Were you authorized to bring a suit for those fees?—A. Yes, sir.

Q. What was done with it?—A. I believe the suit was brought by Mr. Stone, or probably by Jenks and Wilson.

Q. What became of the suit?—A. I have no knowledge of that.

By Mr. VAN ALSTYNE:

Q. You did not bring any suit, did you?—A. No, sir; when I left there I abandoned the case.

Q. Do you know anything about Hall's financial condition?—A. Well, no; of my own personal knowledge, I do not.

Q. Do you know who are on his bond?—A. I do not.

Q. What was his financial condition when he was appointed marshal of the western district of Pennsylvania?—A. I do not think that at that time he had any property; I know he had no real estate, and I don't think he had any personal property that would have covered the exemption in our State of \$300. I know he was poor, and was considered poor; I know that, because there were peculiar circumstances connected with his appointment which particularly called my attention to it at the time.

Q. What were those circumstances?—A. Marshal Murdoch wanted to go out, and Mr. Hall was his deputy, and Mr. Swope was the district attorney; and he and Judge Kennan took a special train over the Baltimore and Ohio Railroad, came down here to Washington, went back the next day, and there was a change in the office.

Q. What change took place?—A. Mr. Murdoch was turned out, went back to Little Washington, and Mr. Hall became marshal and assumed the duties of the office.

Q. What was peculiar about that?—A. I suppose the peculiarity of it was that somebody else wanted to get in at the same time that Mr. Ruttan, of Beaver, was a candidate for marshal.

Q. They stole a march on him?—A. Yes, sir; stole a march on him. That is nothing to their discredit.

Q. Was there any reason other than that why he should have been appointed marshal?—A. I don't know what the reasons were why he should have been appointed. He was appointed. As a deputy he did credit to the office, I always thought—always performed his duties nicely.

Q. Was he, so far as you could see, an efficient business man in the office?—A. Yes, sir.

Q. Did he pay personal attention to the business?—A. I think for the last three or four years that he did not. I think he rather delegated it, and let the deputies do more of the business than he did himself. That was my experience with him for the last three years that he served.

Q. What was his financial condition at the close of his official term?—A. I only know from general repute. He is reputed to be worth from \$200,000 to \$300,000.

Q. Have you not lived in that community?—A. Yes, sir; I did live there until 1875, and then I came to Clearfield, my old home. I was in Pittsburgh almost constantly until two years ago.

Q. Do you attend the courts there?—A. Yes, sir; occasionally.

Q. You have means of knowing the amount of business done there?—A. Yes, sir.

Q. Did you ever act as a deputy for Hall in the service of writs or processes?—A. I never acted as such but once to my recollection. I went to Paola, in Kansas, and Falls City, Nebr., to serve some subpoenas.

Adjourned.

WASHINGTON, *May* 10, 1884.

A. J. BROWN recalled and further examined.

By the CHAIRMAN:

Question. State whether you have examined the report made by Mr. Ralph Ballin, examiner of the Department of Justice, in relation to Marshal Hall's affairs.—Answer. I have, sir; I have looked it over carefully.

Q. State whether that report disclosed all of the matters relating to Marshal Hall's accounts.—A. I think not; I think it claims to cover only those civil cases in which Mr. Ballin testified to discrepancies amounting to \$153,000.

Q. In the investigation which you made into the accounts of Marshal Hall, did you discover other cases which do appear in the report of Mr. Ballin?—A. No; I did not, because I confined my investigation particularly to the Roberts business; I know nothing about the bankrupt business.

Q. Does Mr. Ballin's report show all about those torpedo cases?—A. I do not think it does, although it may. The matters are not itemized at all.

Q. Please explain what that report does show in reference to the Roberts cases, and what your investigation shows so far as regards the proper fees to be returned in those cases.

Mr. VAN ALSTYNE. I understood the witness to say yesterday that there were no entries upon the marshal's docket in reference to the Roberts transactions before 1880.

The WITNESS. Oh, no; I did not say that. The marshal kept a regular docket on which there was entered something over 1,800 cases, in which he carried out his costs, which amounted to something like \$30,-

000. Then he was required by law to return to the Department the names of the deputies who had served those writs, with how much each had been paid; but I said up to 1880 none of the parties who handled those writs appeared in his emolument returns.

Q. Did the cases themselves appear in the returns in any way?—

A. No; it was not necessary that they should.

By the CHAIRMAN.

Q. The fees did not appear and they ought to have appeared?—

A. The fees ought to have appeared there and they did not. For instance, if I, as a deputy, earned \$1,000 in any particular year the marshal was required to state that in his emolument return, and also to state how much he had paid me for doing the work and to return my voucher.

Q. And the fees earned were over \$6,000 a year he was required to cover into the Treasury.—A. Yes, sir; by law the marshal can only pay to any one deputy 75 per cent. of the earnings; he is limited to that; he has a right to say that much or any less figure that he sees fit, or that they can agree upon, but if he pays a man 50 per cent. then he must account to the Government for the other 50.

Q. And you say that up to 1880 the marshal made no return at all to the Government in those Roberts cases?—A. He did not.

Q. So that whatever fees he got in those cases are not disclosed in his emolument returns?—A. No, sir; only as he has put them under the head of his own personal earnings, and it would be false if he did that.

Q. Then, if all the earnings in the Roberts cases were not included in the marshal's emolument return as shown by Mr. Ballin's report, what would be the excess of fees, in addition to what Mr. Ballin found, that the marshal should have returned?—A. That is a very hard question to answer, owing to the way they do their business. Of course, the marshal should return the gross earnings, and then should make a statement of how he had disposed of the money and how much he had paid his deputies. If the gross earnings in the Roberts torpedo business amounted to \$30,000, it should have been returned, with a statement of who it was that earned those fees.

Q. What would have been the earnings in the Roberts cases, according to your judgment, based upon your knowledge of those cases and your investigation?—A. I cannot say in dollars and cents, but Mr. Hall's own books show about \$30,000. I have got data of all the cases, the numbers of the terms, and the amounts that he has carried out, and, as I stated the other day, there is not one case of those that is correct.

Q. You say you have examined his emolument returns?—A. Yes, sir.

Q. And how much do they show that he earned in these cases?—A. They show that he earned \$70,000 altogether while he was in office; that embraces everything.

Q. But do they show that he earned anything in the Roberts torpedo cases?—A. No, sir; not up to 1880.

By Mr. MILLIKEN:

Q. What did he do with those fees; pocket all the money and make no return?—A. I don't know. That is something that we are trying to find out. The Department of Justice has seen fit to call me a black-mailer, a thief, and a perjurer, because I have been inquisitive enough to want to find out.

Q. Would you not have a cause of action against the Department for

making a statement of that kind?—A. I don't know; I am very much gratified that they have treated me so kindly.

Mr. MILLIKEN. People in my part of the country are not gratified at having such charges made against them.

The WITNESS. I defy any man living to say that I ever stole a dollar.

By Mr. MILLIKEN:

Q. But you say that the Department of Justice has said it.—A. They have testified to that before this committee.

The CHAIRMAN. It was stated by Mr. Ballin that he had been informed at Pittsburgh that you had demanded \$10,000 from Mr. Hall as hush money, but you have stated here that that was not true?—A. It is not true. Mr. Hall, I believe, states that, but the statement is false, as is the nineteen sworn statements in the Treasury Department, which Mr. Ballin says are false.

By Mr. FYAN:

Q. Where are the books that you examined?—A. In the marshal's office, and in the office of the clerk of the circuit court in Pittsburgh; the emolument returns are in the First Auditor's Office, here in Washington.

By Mr. MILLIKEN:

Q. Then all of this which you have testified to here is matter of record, is it?—A. Yes, sir.

Mr. MILLIKEN. Mr. Chairman, I suggest that the record is the best evidence.

The CHAIRMAN. Mr. Ballin has already examined the records and reported the result.

By the CHAIRMAN:

Q. Having examined Mr. Ballin's report, how much do you find that the records fail to show of evidence in the Roberts cases, which according to your investigations should appear?—A. I cannot tell you, because he embraces everything, and without an itemized statement no man can tell. It may take that all in and it may take none of it.

Q. But I understood you to say that the court record only shows the issuing of the subpoenas and the injunctions, and that in nearly all of those cases proceedings were stopped at that point.—A. Oh, I understand you now. I presume there would be \$25,000 or \$30,000, taking that class of writs that have never been entered.

By Mr. FYAN:

Q. Would not those writs be returned to the court?—A. No, sir. They claim that the master's notices are still in the hands of the master. The master was Mr. Gamble, and he was also the clerk of the court. Subpoenas for witnesses would also remain in his hands.

Q. After you had served the subpoena, what would you do with it?—A. I would return it to Mr. Roberts when I was working for him, and after I began to work as a deputy for Marshal Hall I returned the subpoenas to him.

Q. Do I understand you to say that those writs have never been returned?—A. Yes, sir; a certain class of them; the subpoenas for witnesses in the Roberts cases and motions for preliminary injunctions and master's notices. Mr. Gamble claims that they are in the hands of the master, and he is the master. But I think I can explain to this committee so that they will understand why it was impossible for Mr. Hall to embrace those in his emolument returns. Those papers would be issued

and he would turn them over to the Roberts company. His arrangement or contract with them was that they should do the serving of their own papers and pay him 50 per cent. of the cost instead of the whole cost. That was the transaction between the two. Then Mr. Roberts would hire men to serve the papers. Many of the papers were served for \$1 a writ, many of them for \$2 a writ, and some of the men worked by the month. There you have the contract between Mr. Hall and Mr. Roberts, and the contract between Mr. Roberts and his man. Now, who is deputy? Can Marshal Hall swear that he has paid 50 per cent. to Tom Jones when Tom Jones got only 10 per cent.

Q. I believe you have testified that there was a large number of those suits?—A. Yes, sir.

Q. And they were for infringements of patents?—A. Yes, sir.

Q. The practice was to sue out a preliminary injunction in the court at Pittsburgh?—A. Yes, sir.

Q. And have it referred to a master for subpœnas?—A. Yes, sir.

Q. Then the papers were sent out into the oil regions and were served, and there was no record or return of costs made?—A. There never was in the marshal's office. I know that in cases that I looked after, when I did not find those subpœnas and master's notices, I asked the question where they were and was answered that they were still in the hands of the marshal.

Q. How long was that after the proceedings were instituted?—A. In some cases four or five years.

By Mr. VAN ALSTYNE:

Q. From whom did you get that information?—A. From the clerk of the court.

Q. Who was also the master?—A. Yes, sir. But at the time I asked the question he was serving in the capacity of clerk.

By the CHAIRMAN:

Q. Have you any information as to the amount of money loaned by Hall's son to other deputies under Hall for any given time?—A. No, sir. In fact I was not acquainted with Mr. Hall's son. He went out before I came in. I think he left the office in 1878.

By Mr. MILLIKEN:

Q. Were you ever appointed a deputy marshal, at all?—A. I was. I was appointed in 1878, but was never sworn in.

Q. So that you never served in the capacity of a deputy marshal with authority to serve?—A. No, sir.

By the CHAIRMAN:

Q. Have you a list of the earnings of the deputies during the time you were in the service?—A. I have.

Q. Can you give us that?—A. I can give you a statement.

Q. A statement of what appears in the marshal's emolument return?—A. Yes, sir. Aside from that I do not know anything about it.

Q. What period of time do those returns cover?—A. Nine years and a half.

Q. Were they embraced in Mr. Ballin's examination?—A. I do not know whether they were or not. [Reading]: A. Murdock received \$500; J. Ad. Hall, the marshal's son, received \$12,850; T. J. Cochran, \$75; John T. Sweeney, \$985; John Patterson, \$50; John Grayson, the marshal's clerk, \$1,705; W. T. Lindsay, another clerk, \$600; A. J. Brown, myself, \$854.14; Samuel Woods, a gentleman who testified here the

other day, \$89.90; R. K. Campbell, who was a deputy for six or seven years, \$112; Mr. R. Rouse, \$89.85. That is all that the marshal returned as having been paid out by him to his deputies. Here is what Mr. Hall says was earned by himself during those nine and a half years, according to his sworn statement—\$35,591.37. He says that his deputies earned during the same time, \$34,641.43. These figures are taken from his emolument returns. These two amounts together are just what he returned to the Government as his earnings. His net earnings each year always came a little below the \$6,000, except one year, 1878, when there was an excess of \$143.70. That is the only year he ever returned anything, and the only amount of money he ever returned, according to his statements.

Q. Can you tell how much he should have returned so far as your knowledge goes?—A. No; because I did not go over everything. I only went over the Roberts cases, and they amounted to about \$30,000. I could prepare a statement giving you each number, and just exactly what the marshal's docket shows in the Roberts cases.

Q.. That, however, would not show all that he received, would it?—A. I think not, because it would not cover all the writs that were issued. The idea of anybody stating here that Mr. Hall was not a business man! He was appointed receiver of a bank that had suspended, and he performed the duties, I believe, very creditably. He has held different positions of trust, and has always been considered a shrewd business man, and these ridiculous statements regarding him have always come from somebody connected with parties in the office. I have never seen any such statements from parties outside. This torpedo business has been public talk through the oil country for the last ten years, a matter of gossip on the street corners among business men. I know they always employed in the marshal's office the best clerks they could get, and I know that Mr. Hall was always present, while I was in the service, when these emolument returns were made out. It was stated here that they were made out by Mr. Hall's son, but that son had no connection with the office after 1878.

Q. It is your opinion, then, that if there was any bad management Mr. Hall was personally cognizant of it?—A. Yes, sir; it could not have been any other way, because he was a sworn officer of the Government and there was no reason why he should not have known exactly how the business stood, and to my knowledge he was a good business man; a competent man, and a man of good business standing, and I am only surprised that in that year, 1878, he did not figure down that \$143 so as to keep that too [laughter]. I do not wish to black-mail Mr. Hall, or to injure him at all, though of course I do not feel friendly to him for giving out to the world that I was a thief, a black-mailer.

WASHINGTON, *May* 16, 1884.

WILLIAM A. STONE sworn and examined.

By the CHAIRMAN:

Question. Please state your residence and occupation.—Answer. I am thirty-eight years of age; I reside in Allegheny City, Pa.; I am a lawyer by profession.

Q. Do you hold any office under the Government?—A. Yes, sir; I am United States attorney for the western district of Pennsylvania.

Q. How long have you held that office?—A. I was first appointed in July, 1880, when the Senate was not in session. Afterwards I was re-appointed and confirmed in January, 1881.

Q. Do you still hold that office?—A. Yes, sir; I still hold that office.

Q. Have you read the evidence given before this committee in relation to the question of the necessity for a third assistant district attorney in the western district of Pennsylvania?—A. Yes, sir.

Q. Is there anything that you desire to state in regard to the business of your office and the force necessary to transact it efficiently?—

A. Yes, sir; I desire to make some statements on that subject. I see by the testimony of Simon B. Benson, before this committee, that he speaks of a conversation which he had with John Fox, our court crier, in which, he says, Mr. Fox informed him that he did not know my assistant, Mr. David Cameron. I have here the affidavit of John Fox. He is a very old man and could not well come to testify before the committee, but I would like to read his affidavit.

The CHAIRMAN. That would not exactly come within our rule, but you can state the substance of it.

The WITNESS. Well, the substance of it is that when interrogated as to his acquaintance with Mr. Cameron he did not understand whom Mr. Benson meant, that Benson did not explain what Cameron he meant, and that Mr. Fox was not thinking of David Cameron and did not answer with reference to him. Mr. Fox says further that he does know David Cameron, the assistant United States attorney, and that he, Cameron, has been present at every session of the court in Pittsburgh, since his appointment, and is regarded as an attentive and efficient officer by the court officials in Pittsburgh.

Then, as to the manner of the appointment of Mr. Cameron, the second assistant attorney in my office, Mr. Benson stated here that I got the office created by representing that there was necessity for such an officer in my district. In reference to that I wish to say that I did not get the office created. The office of second assistant United States attorney in that district has been in existence fourteen years. The salary of the office was originally \$1,200, under Mr. Swope. Under my immediate predecessor the salary was \$1,000, and the office was filled by Joseph F. Cook. When I was appointed district attorney Mr. Cook resigned. Judge Devens was then Attorney-General, and for some time the matter was held under consideration by him as to the salaries. Finally the Attorney-General increased the salary of my first assistant, and reduced the salary of my second assistant to \$500. I was unable to secure a man to fill the office at that salary, and I made application to Mr. MacVeagh, after he went into General Garfield's cabinet, for an increase of the salary of the office; and I desire to read to the committee my letter to Mr. MacVeagh, which tells the whole story.

(The witness read the letter as follows:)

OFFICE OF UNITED STATES ATTORNEY,
WESTERN DISTRICT OF PENNSYLVANIA,
Pittsburgh, March 21, 1881.

SIR: Referring to a letter from your predecessor to me, dated August 27, 1880, in which he says, in conclusion, "The sum of \$500 per annum will be devoted to the service of a second assistant, to be appointed hereafter," I have the honor to state that the man I want is one who possesses detective ability and capable of judging of the merits of a case, so that when reports reach this office of violations of the law I can send him out to investigate the facts, make informations, and arrests if the offense be of a character to warrant it. He must necessarily go at his own expense, and as my district is large, the appropriation is not sufficient to meet the demands upon it, neither can I get a man competent for the position at the amount allowed, \$500. When not employed in the investigation of

offenses I can use him to good advantage as a clerk and copyist in this office. I deem it essential to the proper administration of justice in my district to obtain such a man. The sum of \$1,250 at least will be required to employ a competent assistant, which will involve an extra allowance of \$750 over and above that awarded by Judge Devens. Therefore, referring more particularly to my interview with you in Washington on the 17th instant, I have the honor to apply for the appointment of an assistant at a salary of \$1,250 per annum.

Very respectfully, your obedient servant,

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WILLIAM A. STONE,
United States Attorney.

Hon. WAYNE MACVEIGH,
Attorney-General.

The previous conversation with Mr. MacVeagh referred to in this letter was simply this: I called upon him and he told me to go home and write what I wanted and he would take the matter into consideration. I wrote this letter which I have read, and the result was that I was given permission to name an assistant, at \$1,250, to fill the vacancy caused by the resignation of Mr. Cook. The gentleman whom I recommended first for appointment, Mr. James A. MacLaughlin, of Pittsburgh, was not a member of the bar. My idea as to the kind of man I wanted was well expressed in this letter to Mr. MacVeagh. I wanted a man that I could send to different parts of my district, a man who had some knowledge of the rules of evidence and could examine witnesses before the grand jury. Mr. MacLaughlin, however, received a better offer from his employer, and did not accept the position, and I then recommended the appointment of Mr. Samuel Woods, of Erie. Mr. Woods was an entire stranger to me at the time. He was recommended by Mr. Perkins, who testified here the other day. Mr. Perkins was so warm in his recommendation, and so strong in his indorsement of Woods that I believed that we were getting a very efficient man. I said to Mr. Perkins that I would try Mr. Woods for a year, and that if he was satisfactory he would probably remain in the office, but that I was making the appointment entirely on his (Perkins's) recommendation, Mr. Woods being an entire stranger to me. It was represented to me that he was a shorthand writer and was familiar with the rules of evidence, so that he could examine witnesses before the grand jury, could go before a United States commissioner, and in general that he possessed all the legal knowledge that was requisite to fill the position. I recommended his appointment, and Attorney-General MacVeagh appointed him. For a time Mr. Woods did very well, but he had to pay his own expenses out of his salary of \$1,250 a year; I was unable to get him passes over the roads, and he soon grew tired of going before United States commissioners, and he was not efficient as an examiner of witnesses before the grand jury. I found that he was unacquainted with the rules of evidence, and that it was not safe to send him before the grand jury with a bill. I spoke to Mr. Perkins upon the subject, as the year drew to a close, and said to him that Mr. Woods had not performed the duties that he, Perkins, had said he would; that he was a good man, and had tried to do as well as he could, but that he had not the qualifications which Mr. Perkins assured me he possessed. I don't remember saying anything more to Perkins on the subject; I think that was the extent of my conversation with him; that I complained about the inefficiency of Woods. Mr. Woods himself saw the position and the difficulty in which he was placed; saw that he did not suit the office, and that the office did not suit him, and he so stated to me, and on the 31st day of March he resigned. I submit here his letter of resignation, addressed to the Attorney-General.

(The witness read the letter as follows:)

PITTSBURGH, *March 31, 1882.*

SIR: I have the honor to respectfully tender my resignation as an assistant United States attorney for the western district of Pennsylvania, to take effect from this date; and with my resignation, I beg the privilege of expressing my regard and esteem for my superiors in office, United States Attorney Stone and Assistant United States Attorney Wilson, with whom my official relations have been uninterruptedly pleasant.

Very respectfully yours,

SAMUEL WOODS.

Assistant United States Attorney.

Hon. B. H. BREWSTER,
Attorney-General, Washington, D. C.

I submit that letter in reply to some suggestion that was made here that Mr. Woods was forced to resign. There was nothing of that kind. It was his own voluntary act, and after his resignation I recommended the appointment of Mr. David Cameron. Mr. Cameron is a man with whom I have been personally and intimately acquainted for a great many years, and his appointment was recommended by Judge Wilson, Judge Williams, of the fourth judicial district, and the Hon. Hugh Young. I believed him to be a proper man for the office, and thought he would make a good, efficient officer. I thought also that his location, his residence being in the northern portion of my district, would be an advantage rather than a disadvantage in transacting the business of my district. I never was written to or spoken to by Senator Mitchell in relation to Mr. Cameron's appointment. They are brothers-in-law, but Mr. Mitchell never requested Mr. Cameron's appointment, directly or indirectly. I recommended his appointment mainly from my own personal acquaintance with him and regard for him.

As to Mr. Cameron's services and the necessity for a second assistant in my district, I have this to say: My district is a very large one, and I beg leave to submit for the consideration of the committee a map of the district, showing its extent as compared with the eastern district of Pennsylvania.

The CHAIRMAN. I understand that your district embraces all the States outside of the eastern district.—A. Yes, sir. Here is my district [indicating on the map].

The CHAIRMAN. It embraces about three-fourths of the State?

The WITNESS: Three-fourths of the State in territory and over one-half in population. My district is larger as to population than any other district in the United States except one, the southern district of Ohio, and one other which is hardly larger than mine if properly understood, the northern district of New York. The southern district of New York includes the navigable waters about the city of New York.

The CHAIRMAN. The eastern district includes only Long Island?

The WITNESS. It includes Brooklyn and the waters about the two cities. Litigation arising upon those waters comes within that district, and a great many while they live in other districts probably have their business in that district. The southern district of Ohio is largely an agricultural region. My district, on the other hand, contains mining regions, and the oil territory of the State is included in it. The anthracite and the bituminous coal regions of Pennsylvania are in my district—not all the anthracite, but a portion of it—for instance, Luzerne and Lackawanna Counties. As I have said, with the two exceptions I have mentioned, my district is larger in population than any other in the United States. It is larger than Alabama, Arkansas, Florida, Georgia, Iowa, Michigan, Mississippi, Louisiana, Tennessee, or North Carolina; and all these districts, which are less than mine in population, have each

more than one district attorney, and some of them have two or three assistant attorneys. I claim that, in view of the magnitude of my district, its population, and the business transacted in the courts there, I have fewer assistants comparatively than any other district in the United States. Compare the business transacted in my district with that transacted in any other district in the country. Take, for instance, the southern district of New York, where the United States attorney has a specific salary of \$6,000 a year, and has seven assistants with salaries aggregating \$15,000. In that district, for the fiscal year ending June 30, 1883, it appears by the report of the Attorney-General that they tried only two more criminal cases than I tried in my district; that is, they tried 77 and I 75.

Now, as to the amount realized from judgments obtained during the year——

Mr. FYAN. What is the object of this testimony? Do you offer it to show the necessity for a third assistant?

The WITNESS. Yes. The amount realized from judgments obtained during the fiscal year ending June 30, 1883, in the western district of Pennsylvania, was \$49,474.27, being more than twice as much as was realized from any other district in the United States with the exception of one, the district of New Jersey. In that district that year a man named Lewis died and bequeathed to the Government about \$1,000,000, which was finally collected and paid into the United States Treasury, And the last fiscal year was not an isolated or exceptional year in respect to the amount of business in my district. My report for the fiscal year ending June 30, 1884, will show the collection of a large amount of money and the payment of the same into the United States Treasury, or judgments obtained during the year. I have not only litigation of a criminal character in the United States courts, but also litigation in several of the county courts in my district wherein the Government is a party. In the case of the distribution of the proceeds arising from the real estate of Moss, in Westmoreland, I appeared for the Government and argued questions in the case, and the Government was awarded \$8,300; and there are other matters which will appear in my report for the fiscal year ending the 30th of June, 1884, which will show, not so much as for the fiscal year ending June 30, 1883, but comparatively a large amount of money collected and paid into the Treasury of the United States.

In addition to this, the navigable waters about Pittsburgh furnish a considerable amount of litigation in which the Government is interested. I have now pending a bill in equity against the Pittsburgh and Lake Erie Railroad Company for maintenance of a nuisance in the Ohio River in the nature of a pier, and I also have pending in the circuit court of the United States an action of ejectment in behalf of the Government for 450 acres of land in Forest County, which is supposed to be valuable land. There has been a verdict for the Government and motions and reasons for a new trial; those motions and reasons have been overruled and the other side claim that they will take the case to the Supreme Court. I never have had a special assistant assigned to try cases or transact any business. It has all been done by myself and my assistant.

Mr. Cameron's services are not alone before the grand jury. He is not only in attendance at every United States court which is held in the district, but he frequently goes before United States commissioners in various parts of the district that are adjacent to his place of residence, and, by way of illustration on that point, I wish to submit here a telegram which will give you an idea of the kind of business which Mr.

Cameron is called upon occasionally to do. Here is a dispatch, dated May 1, 1884, sent to me by the deputy marshal at Wilkes Barre. He says: "Have arrested Martin Schlager for violation revenue laws and perjury. Hearing Saturday, May 3, 2 o'clock p. m.; defendant represented by able counsel. Will you attend? Answer."

That was just at the beginning of our United States court, and it was impossible for me to attend personally, but I telegraphed Mr. Cameron, who, you will see by the map, lives there near that part of the district, and he went there and represented the Government at that hearing. He has also been before other commissioners in the section of the district where he resides. Mr. Cameron draws indictments, conducts the examination of witnesses before the grand jury, and also, when there is a case of importance which I cannot attend to myself, he frequently attends examinations before United States commissioners. In addition to that, Mr. Cameron is not all the time at his home when the court has adjourned. He is occasionally in Pittsburgh when the court is not in session, and he generally remains some days after the adjournment of the court until the business is gotten through with. Something has been said about the Crowell case. That was a very important case. There were several attorneys employed by the defendants and they expected a trial before the United States commissioner, and, in my absence from Pittsburgh, Mr. Wilson went there to represent the Government. He regarded the importance of the case as sufficient to require his attendance.

Something was said also about my employment by A. J. Brown. Mr. Perkins, I believe, testified that I had been employed by Brown to collect a claim against the Robertses, and then intimated that later I became employed by the Robertses. In reference to that I wish to say that Mr. Brown did speak to me about a claim which he had against the Robertses and did employ me to collect it. I undertook the collection of it. I, however, was unable to get any service upon the defendants in Allegheny County, and the statute of limitations having nearly expired upon Mr. Brown's contract (which was with Colonel Roberts), I told Mr. Brown that he must go up into Crawford where the defendant resided and bring his suit where he could get service. He did so and employed counsel up there. I never saw Mr. Brown nor his contract after that. He never paid me a cent of money in any way, shape, or form. After it was said that Mr. Brown had settled his case with the Robertses, in March, 1882, Mr. Hugh Young, who has been an intimate friend of mine for years, became the guardian of the minor children of Colonel Roberts, deceased, and those children became interested in litigation in the United States courts and in other courts. Mr. Young desired counsel to look after his interests and he employed me, and I was retained for that purpose. That was months after Mr. Brown had settled his case with the Robertses; and I was so concerned for Mr. Hugh Young something over a year, until he finally sold and transferred the interest of the minors over to Dr. Roberts, and with that transfer employment ceased. I never represented the Roberts Torpedo Company in the world, except as I represented the interest of these children through Mr. Hugh Young, who was indirectly interested in the litigation.

Something has been said about knowledge coming indirectly to me of charges against Marshal Hall. Mr. Perkins had something to say upon that subject.

By Mr. FYAN :

Q. Before you leave that torpedo company matter please state whether you know anything about the practice that was going on there by your assistant in relation to that patent.

The WITNESS. By my assistant?

Mr. FYAN. I think it was your assistant. Was it your assistant who went out and served warrants upon parties who were violating this patent?

The WITNESS. No; that was the deputy marshal.

Q. Did you know anything about that?—A. I did not.

Q. Was that practice pursued in that district?—A. I do not know; that business was principally before my appointment, as I understood from the evidence.

Q. My recollection is that the statement was made here that there was an agreement between the deputy marshal and this man Roberts, by which warrants were to be placed in the hands of Roberts, and Roberts was to employ a man to serve them, and that man made a compromise with the parties and the papers were never returned, neither the warrants nor the subpoenas. Do you know anything about that?—A. I do not know anything about that.

The CHAIRMAN. Those were processes in civil suits and injunctions in the same cases, where the parties were about to be enjoined for infringing upon the Roberts patent. They were suits between individuals, and the United States was interested in them only to the extent of seeing that the fees and costs were accounted for.

Mr. FYAN. The witness has stated that the district attorney had something to do with the returns that were made.

The CHAIRMAN. If the attorney had to approve the marshal's accounts they would come under his supervision. [To the witness.] Did you have to do that?—A. Not as to the marshal's emolument returns; those I never saw.

Q. What accounts did you see?—A. His quarterly accounts.

Q. Do you approve those?—A. I approve those; that is, I am present when they are approved in court in the presence of the judge and attorney.

Q. Did you examine those?—A. Yes, sir; the quarterly accounts.

Q. For what year?—A. They were for the quarters ending after my appointment, which was in 1880. I think Marshal Hall resigned in March, 1882, and they were therefore for the fiscal year ending June 30, 1881, and for that portion of the year between July 1, 1881, and April 1, 1882.

Q. In what do those quarterly returns consist?—A. They consist only of a statement of the number of prisoners of the United States in different jails, the cost of their maintenance, the number of jurors, and the necessary accounts which come within the personal knowledge of the court. The emolument returns are personal to the marshal entirely, accounting for the fees earned and received by him; those we never saw; I never saw one of the marshal's emolument returns.

Q. By your use of the word "personal," you do not mean to say that that is the personal business of the marshal?—A. I mean to say that the marshal and the district attorney and all the officers make what is called an emolument return to the Government, in which they account for the fees earned and received by them in their official capacity. I think the emolument return is pretty much a personal return between the Government and the officer.

By Mr. FYAN:

Q. Does that include the civil business?—A. Yes, sir; it includes all the earnings of the office.

Q. Whether civil or criminal?—A. Whether civil or criminal.

Q. Was this Brown who testified here a deputy marshal while you were United States attorney?—A. Yes, sir.

Q. He spoke of having made a great number of arrests in a place called Bradford?—A. Yes. Those matters were wholly in the circuit court of the United States; civil cases between individuals.

Q. You had no knowledge of them?—A. No, sir; not at all.

Q. They were never brought to your attention?—A. No, sir; they could not be, because—

By the CHAIRMAN:

Q. (Interposing.) Were there no cases brought to your attention of violation of the internal-revenue laws, in the vicinity of Bradford, by selling liquor without license?—A. Oh, yes; a great many.

Q. Those were prosecuted, were they?—A. I prosecuted some of them, and some of them were compromised. Upon that point let me say that the criminal prosecutions brought in the United States courts for violations of the internal-revenue laws are frequently compromised by the Commissioner of Internal Revenue under the provisions of section 3229 of the Revised Statutes, which authorize the Commissioner of Internal Revenue to compromise cases where the defendant is willing to pay the Government tax, and what is called the assessable penalty, and the costs in the case. Let me say further that these cases are frequently reported to the district attorney. In fact, all violations of the internal-revenue laws are reported to the district attorneys by the collectors. I have brought along a sample letter, such as I frequently receive, reporting violations of the law. In every one of these cases, however, the collector recommends no prosecution.

By Mr. FYAN:

Q. When they compromise those cases with the collector of internal revenue, where does he make his return?—A. He makes his return to the Commissioner of Internal Revenue in Washington.

Q. When those matters are called to your attention, then, there are no writs issued?—A. No; there are no writs issued in these cases. The collector here explains why he recommends a compromise in every case, as you can see (exhibiting the letter). In some cases the offense has been committed in ignorance of the law. Now it should be remembered that the Government does not license any body to sell liquor; it simply says that those who do sell shall pay so much tax. It does not license a man to sell liquor, as the municipal authorities do. It simply requires that every man selling liquor shall pay so much tax to the Government, and all the Government can do is to enforce the collection of the tax when they find the man selling. If the prosecution was continued in every case of violation of the internal-revenue laws, the United States courts would be in constant session. Of course it is for the interest of the Government to get the tax with the least possible cost, and in very many of these cases while the defendant, as soon as he is arrested, will come forward and pay the tax and the assessable penalty and the costs, if the Government, through the Commissioner of Internal Revenue, refused to accept that proposition, and went on with the prosecution, they might keep him for some time in the county jail, at the public expense, and get nothing whatever out of him after all.

The collector of internal revenue reports these violations of law to me, with a recommendation. Where he recommends a prosecution we prosecute. Where he recommends that there be no prosecution commenced, we do not begin any. He also sends a similar report to the Commissioner of Internal Revenue in Washington. Wherever there is a case compromised, it is compromised only with the consent and approval and by the direction of the Commissioner of Internal Revenue. I would not nolle-pros a revenue case of any sort without the approval of the Commissioner of Internal Revenue, because the object in those cases is simply to collect the revenue. In my district (and it is so generally in the other districts, I suppose) it is only in cases where there is willful, determined, continued violation of the law, and an intention manifested not to pay the tax at all, but to sell liquor without the tax, that prosecutions are had and continued.

By the CHAIRMAN:

Q. A great many of these violations grow out of ignorance of the law on the part of the offenders?—A. Yes, sir; most of them. I want to say one word further in reference to some statements made here by Mr. Perkins. He said that my attention was called to the charges against Marshal Hall. I had no knowledge, direct or indirect, nor any information, direct or indirect, of any charges against Marshal Hall until I read in the newspapers that charges were preferred by one A. J. Brown to the Department of Justice. Marshal Hall stood very high in our community, and no one ever supposed that there was anything wrong with his administration of the office or his accounts.

Q. Is he an efficient business man?—A. Well, sir, I am hardly a judge of that. I know very little about him, more than my official connection with him.

Q. You ought to know, as he was marshal of the court while you were district attorney.—A. A man might be marshal of the court and still not be an efficient business man, or not give people an opportunity to judge of that fact.

Q. Well, you would be in a position to know about that as well as anybody, would you not?—A. I do not know, sir, whether he was or was not an efficient business man. He was regarded as a good marshal at the time of my official connection with him.

Q. From your observation of the manner in which the business of the office was transacted, what was your opinion as to whether he was attending efficiently to his official duties?—A. I supposed, from anything that I saw or heard, that he was attending to the duties of his office with efficiency. I never had any opportunity to get any special knowledge of his business capacity.

Q. Did he give his personal attention to the affairs of his office?—A. He was there in the office frequently. I saw him frequently in the office, and so far as I know he did give his personal attention to the business of the office.

Q. From the quarterly accounts which he presented, and which you examined, did it appear that he had personal knowledge of the business of the office?—A. Yes, sir. They were always presented by him in person, and I regarded him as a very efficient officer. Of course, though, I had been but a short time in office when he resigned.

Q. How long was he in office during your term?—A. I think he resigned about the last of March, 1882. I have not consulted the register as to that, but I think he did, and if he did, I had been in office then about a year and 8 months.

Q. During the time that he was in office, while you were holding the office of district attorney, did you see anything in the manner in which he administered the duties of the marshal's office to lead you to think that there was anything wrong in his accounts?—A. I did not.

Q. Did you at any time previous to the publication of the charges made by Mr. Brown, suspect that he was in any way short in his accounts?—A. I did not, sir.

Q. What was his manner of living?—A. Well, sir, I scarcely know. He boarded somewhere in the city. His family lived over in Little Washington, the county-seat of Washington County, about 30 miles from Pittsburgh; I do not know where in Pittsburgh he boarded. I never was at his boarding place in my life.

Q. I am not asking as to that. You understand what I mean. What I want to know is whether his manner of living indicated extravagance and large expenditures, or whether it was economical, indicating that he lived within his means derived from the legitimate returns of his office?—A. Well, sir, his manner of living, so far as I observed it, was an ordinary one, and nothing occurred to lead me to think that he was living outside of his means.

Q. What is Mr. Hall's present condition physically; is he in good health?—A. I have not seen him for months. I believed him to be in good health; but I do not know anything about it. He may or he may not be so; I have not heard anything about him as to health for some time.

Q. There was some testimony here to the effect that last fall he was in a very critical condition, and that was given as a reason for not pressing the matter of a settlement of his accounts, and I did not know but you knew something of his actual physical condition.—A. Well, sir, I did hear that he was not very well, or that he was unwell, but for the last several months I have not heard anything on the subject. I think that possibly he may have been ill last fall. I do not now remember. I remember something about his being sick after these charges by Brown were made public; I heard he was sick some time last year, but I do not know when it was.

Q. Do you know what his financial condition is?—A. I do not. I know nothing whatever about it.

Q. Were you district attorney when Mr. Ballin was up there to examine Marshal Hall's accounts?—A. Yes, sir.

Q. Did Mr. Ballin call your attention to the investigation he had made?—A. Mr. Ballin came to me and told me what he was doing there; he told me he was there to investigate Mr. Hall's accounts. He did not submit to me the result of any of his investigations.

Q. Before he left did he tell you anything about the condition of the marshal's office?—A. Yes, sir; I think he did. I think he said to me in substance that he found things looking bad; that he could not tell definitely until he had time to figure them up, but that he believed there would be a balance against Marshal Hall.

Q. Did he state how much he thought it would be?—A. I don't think he did, sir.

Q. He did not seem to know then, at the time he left Pittsburgh, how much the balance would be, until he could have an opportunity to compute it?—A. That is the impression that he left upon me by what he said. I cannot remember what he said.

Q. Have you had any instructions from the Department of Justice since Mr. Ballin left Pittsburgh, with regard to any steps to be taken to

secure the Government in any amount that might be found due from Marshal Hall?—A. I have not.

Q. Or any instructions as to whether he should be prosecuted for rendering false accounts?—A. None, sir.

Q. Is it your duty to bring those matters to the attention of the grand jury without awaiting instructions from the Department?—A. Well, I hardly know, but I should think it my duty to do so until I had the benefit of the result of the investigations already made.

Q. That you have not had?—A. I have not, sir.

Q. Do you know who were on Marshal Hall's bonds?—A. I do not, but my understanding is that his bondsmen are regarded good and sufficient. That is the understanding I have. I have heard it so stated by somebody whose name I do not remember now.

Q. Does the district attorney approve or does the court approve of those bonds?—A. I think so. I will not be sure. I did not approve this one, I know, because it was made long before my appointment, but I understand the district attorney and the judge do approve them.

Q. Do you desire to make any further statement with regard to the necessity for a second assistant attorney in your district?—A. Yes; I wish to say this, that in a number of districts throughout the country the assistant attorneys do not live at the point where the judge and the district attorney live; that there is precedent for an assistant living outside of the principal place where the courts are held in the district; and that there are a number of districts which are not as large as mine, where the United States attorneys have more assistants, and pay them more money than I pay mine.

Q. During the time that you have been district attorney, have you transacted any law business on your own private account?—A. Yes, sir.

Q. Do you keep an office in Pittsburgh?—A. Yes, sir; I had an office when I was appointed, and I still keep one.

Q. How much of your time can you give to the transaction of private business without interfering with the discharge of the duties of your office?—A. Well, I cannot say how much of it—that is, I cannot divide it. I have some practice, but it does not occupy near so much of my time as the business of the Government occupies. I never transact any private business when there is any Government business to be done, and I am always every day of my life in the United States attorney's office most of the time.

Q. How long do you say that you have been in office as United States attorney?—A. I have been in office practically since about the first of July, 1880.

Q. Nearly four years?—A. Nearly four years.

Q. During that time what has been the average amount of your receipts from private sources in the practice of the law?—A. I cannot tell you—that is, I do not know. When I was appointed, I had some unfinished business which was in process of adjustment, and a large portion of my receipts since that time has been derived from that business which was pending at the date of my appointment. I do not know just what my receipts have been.

Q. Can you estimate the amount?—A. I could if I should go home and take time to figure it up, but I would dislike to guess at it, and it would be no more than a guess if I should undertake to state it here. I do not know what the amount has been. I know, however, that it has not been so large as my receipts from the Government, but I keep no books in my office, and—

Q. What have been your receipts from the Government business dur-

ing your term?—A. I cannot answer that, either, without referring to my accounts, which are on file in the Attorney-General's office. I can state, however, that the office has never yet paid me the maximum of \$6,000.

Q. We have received from the Secretary of the Treasury a statement of the returns of the district attorneys in the different districts, including the western district of Pennsylvania, and it seems, from that statement, that you have never earned the maximum in that district?—A. (Referring to the statement.) No, sir; it seems not.

Q. Are the amounts stated there those which you have returned?—A. I suppose so, if these amounts are taken from the return.

Q. I had supposed that your office had earned the maximum, but it appears from this that it has not?—A. Well, you know that the fees of district attorneys are largely fixed by the judges. The report to the Secretary of the Treasury does not indicate the amount of business transacted or the amounts earned. You understand, I suppose, how the compensation of district attorneys is fixed?

Q. It is fixed by law, I suppose, and ought to be the same in every district for the same service?—A. But it is not. For instance, wherever there is a verdict in a case for the Government the judge may award to the district attorney an amount not to exceed \$30.

Q. Do you mean in other than criminal cases?—A. No; only in criminal cases.

Q. There is a docket fee of \$20 fixed by law, is there not?—A. There is a docket fee of \$20 fixed by law, but where there is a verdict for the Government, the judge may award in addition to that a sum not to exceed \$30.

Q. To be taxed as costs?—A. No, sir; to be charged in the attorney's account and paid by the Government.

Q. Is that in addition to the \$20?—A. Yes, sir. Now judges differ in regard to those awards. Therefore, one district attorney might be trying a great many more cases than another, and might yet get a great deal less money.

WASHINGTON, *May* 16, 1884.

T. C. KNOX sworn and examined.

By the CHAIRMAN:

Question. Please state your age, residence, and occupation.—Answer. My age is 31; I am an attorney-at-law.

Q. You reside in the western district of Pennsylvania?—A. Yes, sir.

Q. How long have you resided in that district?—A. All my life.

Q. How long have you been engaged in the practice of the law?—A. About ten years.

Q. Have you heard the testimony of Mr. Stone as to the business of the office of the United States district attorney in the western district of Pennsylvania?—A. Yes, sir.

Q. What do you say as to the amount of business transacted there, and the necessity for the service of two assistants to the district attorney?—A. I have no knowledge as to the amount of business transacted since the time when I was an assistant, except from the statement of Mr. Stone.

Q. Do you hold any public office now?—A. I do not.

Q. Were you an assistant attorney in that district?—A. I was assistant United States attorney from March, 1875, until June or July, 1876.

Q. You were second assistant?—A. There was no distinction made then. Mr. Wilson and I were appointed assistants, without any distinction as to our rank, and we “pooled” the income of the office—divided it equally. Mr. Wilson nominally drew a larger salary than I did, but we made an equal division.

Q. In what way were you paid?—A. By the Government.

Q. By fees, or by salaries?—A. We were paid salaries. I think our salaries aggregated \$3,200. He drew \$2,000 and I drew \$1,200. I am not certain about the figures, but that is my recollection.

By Mr. STONE:

Q. Do you regard two assistants as necessary to the proper transaction of the business of the office of the United States attorney in that district?—A. Well, I know that when I was there it took all of my time and all of Mr. Wilson’s time, and I know that Mr. Reed, who was then United States attorney, gave very close attention to the office; and, in addition to that, Mr. Wilson and I paid out of our salaries for the services of Mr. Thomas A. Pender in outside work. At that time, therefore, there were practically three assistants in the office, and it kept us all busy, and the reason I resigned in 1876 was because I had private business offered me which I could not attend to on account of the duties of the office.

Q. From your knowledge of that district and of the business of the courts there, what is your judgment as to the number of assistants required?—A. Well, I think the interests of the United States could not be properly attended to there with a less force in the district attorney’s office than there is now and has been always since I have had knowledge of it.

Q. State whether there is a good deal of business transacted in the United States courts there, and whether there is a good deal of litigation in that district?—A. There was when I was in the office, and I have been constantly about the United States court since, and I have a good deal of practice there, and I do not notice any diminution in the volume of business on the part of the Government.

Q. You have tried cases there since I have been United States attorney?—A. Yes, sir; frequently.

Q. Please tell the committee how the business is conducted before the grand jury and the traverse jury by the district attorney and his assistants—how we do the business, and how it has been done to your knowledge.—A. Well, the way we did it when I was there was this: Mr. Wilson would take the grand jury at one term of the court, and I would assist in trying the causes, and then we would reverse that at the next term of court. I found it just as difficult to try cases before a United States grand jury as before a traverse jury, because the United States grand juries are composed of men of superior intelligence, and an ordinary *prima facie* case would not always work with them, and we would have to study up our cases for them just about as thoroughly as for the traverse juries.

WASHINGTON, May 16, 1884.

E. A. MONTTOOTH, sworn and examined.

By the CHAIRMAN:

Question. Please state your age, residence, and occupation.—Answer. I am 46 years of age; I reside in Pittsburgh, Pa.; I am an attorney-at-law.

Q. How long have you been in practice?—A. Since 1861. I have been in active practice since the close of the war.

Q. Have you had any official connection with the Government?—A. No, sir; I have occupied the position of district attorney of Allegheny County; but that, of course, is not a position under the General Government.

Q. Have you heard the testimony of Mr. Stone and of Mr. Knox here, this morning, in regard to the business of the district attorney's office in the western district of Pennsylvania?—A. I heard a portion of Mr. Stone's testimony, but not all of it. Part of the time I was reading some of the evidence already given before this committee. I heard Mr. Knox's testimony, though.

Q. State what you know in regard to the amount of business in that district and the necessity for assistants in the office of the district attorney?—A. I try a great many cases in the United States court, the criminal branch of it, and in my business there since Colonel Stone has been United States district attorney I have very rarely found him absent—no more so than possibly you or I would be. I have always found him giving strict attention to the business of his office. I never attend the sessions of the court in Erie or Williamsport, and, therefore I do not know what the third assistant, Mr. Cameron, does there, or what necessity there may be there for his services, but I have no recollection of his ever being absent from any session of the court in Allegheny County or in the city of Pittsburgh.

Q. He has always attended there, then?—A. I may say always. I have not had any occasion to examine the matter critically, but I have no recollection of his ever having been absent from any session of the court there. Possibly, however, he may have been without my recollecting it.

Mr. STONE. He has never been absent from any court except the Erie court.

The WITNESS. I find Mr. Cameron and Mr. Wilson and Mr. Stone all three engaged in attending to the business of the district attorney's office during the sessions of the court.

By Mr. STONE:

Q. State whether you have had a large experience in the prosecution of criminal cases there.

The WITNESS. Do you mean in the United States courts, or generally?

Mr. STONE. In the United States court and generally.

The WITNESS. Generally I have had, I presume, as large an experience as any person in Allegheny County.

Q. State whether you are not constantly trying cases throughout the year?—A. I am, save during the summer vacation.

Q. Do you not try cases at every term of the United States court that is held at Pittsburgh?—A. Very nearly every term.

Q. You know something of the magnitude of the western district of Pennsylvania?—A. Yes, sir.

Q. And of the character of the country it embraces and of the business of the people?—Yes.

Q. What is your judgment as to the amount of force that is necessary in the district attorney's office for the proper transaction of the business of the Government in that district?—A. I believe that one assistant is necessary constantly in the city of Pittsburgh. From what I know of the outside regions and the business there, I presume that it

would be impossible for the district attorney to attend to it all personally, and I think that for that a second assistant district attorney would be required. There is a very large territory embraced in that district, comprising, I should judge, two-thirds or three-fourths of the State of Pennsylvania.

Q. When the grand jury is in session in Pittsburgh are there not, at the beginning of the term, a great many witnesses, and generally do not the grand jury and the traverse jury sit at the same time, and are we not trying cases not only before the grand jury, but also before the traverse jury, and is it not therefore necessary to have two assistants, in order that the business before both juries may go on at the same time?—A. Well, the records of the court will show the attendance of a large number of people. They congregate there from all over that section, and there is business enough, I presume, to require two assistants, in addition to the district attorney, in order to expedite matters and save expense to the Government. But for the employment of such assistants, the probabilities are that the terms of the court would be longer.

Mr. STONE. Yes. We let the grand jury go two days earlier than they would otherwise get off if we did not have a second assistant district attorney, and we let off a large number of witnesses a good deal sooner than they could go otherwise.

ACCOUNTS OF GEORGE K. CHASE,* LATE GENERAL AGENT OF THE DEPARTMENT OF JUSTICE.

TREASURY DEPARTMENT, *February 4, 1884.*

SIR: In compliance with the request contained in your communication of the 21st ultimo, I have the honor to forward herewith copies of the vouchers filed in this Department, and upon which payments were made to George K. Chase as special agent of the Department of Justice.

Very respectfully,

CHAS. J. FOLGER,
Secretary.

Hon. W. M. SPRINGER,
*Chairman Committee on Expenditures
Department of Justice, House of Representatives.*

TREASURY DEPARTMENT,
FIRST COMPTROLLER'S OFFICE,
Washington, D. C., February 2, 1884.

SIR: I have the honor to transmit herewith, copies of vouchers filed in this Department, of payments made to George K. Chase, special agent of the Department of Justice, in accordance with a request contained in a letter of Hon. William M. Springer, referred by you to this office on the 22d ultimo. The letter of Mr. Springer is returned as requested.

Very respectfully,

WM. LAWRENCE,
Comptroller.

Hon. CHARLES J. FOLGER,
Secretary of the Treasury.

* Mr. Chase was examined as a witness in relation to the case of Marshal Murray, of Kentucky. His testimony will be found in Volume I.

EXPENDITURES IN THE DEPARTMENT OF JUSTICE. 41

WASHINGTON, D. C., Octo. 1, '75.

Hon. Edwards Pierrepont, Attorney-General U. S., to G. K. Chase, Dr.

To services as special agent in matters of Fagan and Wolcott, U. S. marshals, from Aug. 26, '75, to Octo. 1st, '75, 34 days, at \$6.....	204 00
Hotel bill.....	57 50
Fare to New York.....	9 50
“ “ Washington.....	9 50
“ “ New York.....	9 50
	\$290 00

Oct. 16, '75. Received payment.

G. K. CHASE.

Approved.

EDWARDS PIERREPONT,
Attorney-General.

WASHINGTON, D. C., Nov. 13, 1875.

Hon. EDWARDS PIERREPONT,
U. S. Attorney-General :

SIR: The within is a statement of cash paid out by me as your special agent to Mississippi from Octo. 1st, 1875, to Nov. 13, '75, every dollars so expended was necessary in order to get at the truth.

I am, with respect, very truly, yours, &c.,

G. K. CHASE.

R. R. fare from N. Y. to Jackson, Miss., and return, including sleeping car..	116 00
R. R. fare from Jackson, Miss., to New Orleans, and ret., for two persons, including sleeper.....	46 00
R. R. fare from Jackson, Miss., to Vicksburg, and ret.....	12 00
R. R. “ “ “ “ “ Haley Springs, and ret.....	15 00
R. R. “ “ N. Y. to Washington, and ret.....	19 00
Porterage, expressage, &c.....	12 00
Telegraphing Attorney-General and others.....	89 50
Board, 35 days, \$4.....	140 00
“ 9 “ 4.50.....	40 50
Stationery, postage, &c.....	6 00
Dinner, wine, cigars, &c., absolutely necessary in order to get facts, &c ..	200 00
	\$696 00

Cash paid to a party for secret information which enabled me to save the U. S. Government several thousands of dollars and many lives. By having this information, I was able to bring about a meeting between the oppo- sition and the governor which led to the pledge of peace; but for that agreement a bloody war would have taken place in Mississippi.....	500 00
	\$1,196 00

44 days services, 24 days and nights of which was very severe and brought about good results to the U. S. and the people of Mississippi.

Received Nov. 13th, 1876, from David Thomson, disbursing clerk Department of Justice, eleven hundred and ninety-six dollars.

G. K. CHASE.

Account of Geo. K. Chase for services to A. G., in Mississippi, from Oct. 1, '75, to Nov. 13, '75.

Approved.

EDW'DS PIERREPONT,
Att'y-Gen'l.

WASHINGTON, D. C., *Dec. 7th, '75.*

Statement of cash paid by G. K. Chase for expenses from Nov. 13th to Dec. 7th, 1875, in the secret service of the U. S. Government, in Mississippi affairs, also for services rendered as special agent U. S. from Oct. 1st to Dec. 7th, 1875, while in Miss., Washington, Boston, and New York :

68 days services at \$6 per day	408 00
Hotel bills	110 00
Fire, porter, ex. meals, &c	16 50
Telegraph	15 80
Fare to New York, \$9.50; Boston and ret., \$12	21 56
Fare of A. to Washington and return	40 00
Fare to New York and return \$20.00, and a hotel bill \$30	50 00
Fare to New York and return	20 00
Necessary expenses, cab, &c	23 00
	\$704 80

Received Wash., D. C., Dec. 10, 1875, of David Thomson, disb'g cl'k Dep't Justice, seven hundred and four dollars eighty cents, in full of the above account.

G. K. CHASE.

Account of expenses and services ren'd U. S. Government by G. K. Chase as special agent from Oct. 1st to Dec. 7th, '75.

Approved.

EDWARDS PIERREPONT,
*Att'y-Gen'l.*WASHINGTON, D. C., *January 10, 1876.*

Account of services and expenses of G. K. Chase, as special agent of U. S. Government from Dec. 7, '75, to January 10, 1876, while in New Orleans, La., Mississippi, New York, and Washington :

35 days, at \$6 per day, from Dec. 7, '75, to Jan. 10, '76	\$210 00
Hotel bill and meals, 35 days	157 50
Telegraph from Washington to New Orleans, Jackson, and other points, during past 35 days	19 22
Fare to New York	9 50
“ “ Washington	9 50
Sundries, necessary expenses at Washington and N. Y., to obtain information	26 00
Fare from New Orleans to New York, including sleeper, and return	112 00
Expense in Miss. looking for witnesses, horse hire, and sundries	79 00
Fires	16 00
Carriage hire and expressage and postage	19 50
Fare Washington to New York	9 50
	\$667 72

Received from David Thomson, esq., disb. cl'k, Dep't Justice, the sum of six hundred and sixty-seven $\frac{72}{100}$ dollars, in full for the above account.

GEO. K. CHASE.

JAN'Y 13, '76.

Ac. of G. K. Chase, special agent, from Dec. 7, '75, to Jan. 10, '76.

Approved.

EDWARDS PIERREPONT,
*Attorney-General.*WASHINGTON, D. C., *Feb. 17, 1876.*

Statement of expenses and services rendered the U. S. Government in the Department of Justice by G. K. Chaso as special agent, secret service, from January 10, 1876, to Feb. 17, 1876.

38 days' services at \$6	\$228 00
38 days' hotel bill	171 00
Fires	16 00

Telegraph	\$8 20
Cab in N. Y. and Albany	12 00
R. R. fare, Washington to Albany and return	28 00
R. R. fare, New York and return	19 00
Paid for information, \$10, \$25	35 00
<i>Sundrie</i> necessary expenses to get information on, of importance to Govern- ment	36 00
R. R. fare, Albany and return	28 00
<i>Sundrie</i> expenses in Albany	12 00
	\$593 20

Received payment from David Thompson, disb'g clerk, in full of the above account,
five hundred and ninety-three $\frac{20}{100}$ dollars.

G. K. CHASE.

Approved.

EDWARDS PIERREPONT,
Attorney-General.

Ac't of G. K. Chase, special agent, Dep't Justice, from Jan. 10 to Feb. 17, '76.

WASHINGTON, D. C., *March 22, 1876.*

Statement of services and expenses of G. K. Chase, special agent Department of Jus-
tice, U. S. secret service, from 17 Feb. to March 23d, 1876.

To 36 days' services, at \$6 per day	\$216 00
To hotel bills	162 00
To fires	18 00
To telegraphing and postage	13 86
To cabs in N. Y., Washington, and Montreal	18 50
To fare New York to Washington and return	20 00
To fare New York to Washington and return	20 00
To fare New York to Washington and return	20 00
To fare New York to Montreal	16 00
To fare Montreal to New York	16 00
To fare N. Y. to Washington and return	20 00
To fare N. Y. to Washington and return	20 00
To <i>sundrie</i> expenses to obtain information and cash paid for information	113 00
To fare of M's agent N. Y. to Washington and ret	20 00
To extra sleeping berth	2 00
	\$695 36

Received from David Thompson, esq., disb. clerk, the sum of six hundred and ninety-
five $\frac{36}{100}$, in full for above act., Mar. 23d, pd.

G. K. CHASE.

Approved.

EDWARDS PIERREPONT,
Attorney-General.

WASHINGTON, D. C., *April 25, '76.*

Statement of expenses and services of G. K. Chase as special agent, Dep't of Justice,
secret service, U. S., from March 23d to April 25th, 1876.

34 days' services, at \$6 per day	\$204 00
34 days' hotel bills	153 00
Fires	8 00
Telegraphing	19 18
Carriages and wagons N. Y. and Miss	32 00
R. R. fares to Mississippi and return	116 25
R. R. fares to Indiana and return	67 00
Paid for information, and <i>sundrie</i> necessary expenses to obtain same	103 00
R. R. fare to New York and return	20 00

44 EXPENDITURES IN THE DEPARTMENT OF JUSTICE.

R. R. fare to New York and return	\$20 00
R. R. fare to New York and return	20 00
R. R. fare to New York and return	20 00
Extra expenses in Marsh matter.....	28 00
	\$810 43

Received from David Thompson, esq., disb'g clerk, the above amount in full for all demands to date, eight hundred and ten $\frac{43}{100}$ dollars.

Washington, D. C., April 25, '76.

G. K. CHASE.

Approved.

EDWARDS PIERREPONT,
Attorney-General.

Statement of services and expenses of G. K. Chase as special agent Department of Justice, in the secret service of U. S. Government, from April 25th to May 31st, 1876.

To 36 days' service, at \$6.00 per day	\$216 00
36 days' hotel bill, \$4 $\frac{50}{100}$	162 00
R. R. fare, Washington to Chicago, Indianapolis, Lansing, &c., and return..	83 00
Sundry expenses at the West	15 25
R. R. fare Washington to Albany and ret.....	29 00
Sundrie expenses there (Albany).....	17 00
R. R. fare, Washington to N. Y. and return 12 times.....	240 00
Telegraphing and postage	16 20
Cab and wagon hire	28 50
Sundrie necessary expenses and paid for information	137 60
	\$944 55

WASHINGTON, D. C., May 31st.

Received from David Thompson by disb. clerk, nine hundred and forty-five $\frac{55}{100}$ dollars, in full for above account.

G. K. CHASE.

Approved.

EDWARDS PIERREPONT,
Attorney-General.

WASHINGTON, D. C., June 30, '76.

Statement of expenses and services of G. K. Chase as special agent secret service, U. S. Dept. of Justice, from June 1 to June 30, 1876.

30 days' services, at \$6.....	180 00
30 days' hotel bill, \$4.50	135 00
Telegraphing	13 90
Cab, carriage, and wagon	32 00
Fare to N. Y. and return	20 00
Fare to Purdy's Station and ret.....	3 00
Fare to N. Y. and ret.....	20 00
Fare to Louisville, with sleeper	22 00
Fare Louisville to N. Y., with sleeper	24 00
Fare to Boston and return	20 00
Fare N. Y. to Washington	10 00
Fare Washington to N. Y.....	10 00
Fare N. Y. to Washington.....	10 00
Fare of witness, N. Y. to Washington and ret.....	20 00
Paid for information and sundrie necessary expenses during (June).....	86 00
	\$605 90

Received from David Thompson, esq., disb. clerk Dept. of Justice, six hundred and five $\frac{90}{100}$ dollars, in full for above account.

G. K. CHASE.

JUNE 30, 1876.

Approved.

ALPHONSO TAFT,
Attorney-General.

Statement of expenses and services rendered to the U. S. Government as special agent of the Dept. of Justice (secret service) from June 30 to Aug. 7, 1876.

38 days' service, at \$6 per day	228 00
38 days' hotel bill, at \$4.50 per day	171 00
R. R. fare, with sleeper, to New York	10 00
R. R. fare, with sleeper, N. Y. to Albany	9 00
R. R. fare, with sleeper, N. Y. to Washington	10 00
R. R. fare, with sleeper, Washington to N. Y.	10 00
R. R. fare, with sleeper, N. Y. to Washington	10 00
R. R. fare, with sleeper, Washington to St. Louis	27 50
R. R. fare, with sleeper, St. Louis to Louisville, Ky	13 50
R. R. fare, with sleeper, Louisville to Washington	18 50
Telegraphing	12 80
Carriage, cab, and wagon	21 50
Cash paid for information, N. Y.	50 00
Cash paid for information, Ky	150 00
Cash paid for stenographer, Ky	10 00
<i>Sundrie</i> cash expenses by self to prove facts and get at the truth in my several missions	89 00
	\$840 80

WASHINGTON, D. C., Aug. 7, '76.

Received from David Thompson, esq., disb. clerk, the sum of eight hundred and forty dollars $\frac{80}{100}$, in full for above ac't.

G. K. CHASE.

Approved.

ALPHONSO TAFT,
Attorney-General.

Statement of expenses and services of G. K. Chase, as agent of the Dept. of Justice, secret service, U. S. Government, from Aug. 8, 1876, to Sept. 7, 1876.

30 days' service, at \$6.00 per day	\$180 00
30 days hotel, \$4.50	135 00
Telegraphing	8 30
R. R. fare, Washington to New York	10 00
R. R. fare, New York to Washington	10 00
R. R. fare, Washington to Richmond	5 75
R. R., 2 persons' fares, Richmond to Washington	11 00
R. R., 2 persons' fares, Washington to Louisville	35 00
R. R. fare, Louisville to Frankfort and ret.	5 50
R. R., 2 persons' fares, Louisville to Cincinnati	8 00
R. R., 2 persons' fares, Cincinnati and New York	36 00
R. R., 2 persons' fares, New York to Washington	20 00
R. R., 1 fare, Washington to Richmond	5 75
R. R. fare, Washington to Louisville and ret.	35 00
Personal expenses during 30 days to execute my several missions and necessary to get the facts	79 00
Paid for information and services of information to prove sums B No. 125, D No. 100, B No. 13.	238 00
	\$822 80

WASHINGTON, D. C., Sept. 7th, 1876.

Received from David Thompson, esq., disb. clerk, Dep't of Justice, the sum of eight hundred and twenty-two $\frac{84}{100}$ in full for above account.

G. K. CHASE.

Approved.

ALPHONSO TAFT,
Attorney-General.

Pd. Sept. 7.

WASHINGTON, D. C., Oct. 17, '76.

Statement of services and expenses of G. K. Chase, as agent Department of Justice
(secret service) U. S., from Sept 7 to Oct. 17, 1876.

41 days, at 6.00 per day	246 00
41 days' hotel bills \$4.50	184 50
R. R. fare Washington to N. Y.	10 00
R. R. fare N. Y. to Buffalo and Whitehall	14 00
R. R. fare Whitehall, &c., to N. Y. and Long Branch	17 25
R. R. fare N. Y. to Washington	10 00
R. R. fare Washington to Richmond and return	11 50
R. R. fare Washington to N. Y. and return	20 00
R. R. fare Washington to Toledo, O	13 00
R. R. fare Toledo to Cincinnati	4 75
R. R. fare Cincinnati to New York	14 00
R. R. fare New York to Washington	10 00
Telegraphing \$8.65, wagon and cab \$16.00	24 65
Sundrie necessary expenses, and cash paid for information to make investigation and successfully accomplish my mission	183 00
	\$762 65

WASHINGTON, D. C., Oct. 17, '76.

Received from David Thomson, esq., disb'g clerk Dep't of Justice, the sum of seven hundred and sixty-two $\frac{65}{100}$ dollars, in full for above account.

G. K. CHASE.

Approved.

ALPHONSO TAFT,
Attorney-General.

Statement of expenses and services of G. K. Chase, as agent of the Department of
Justice, Secret Service, U. S. A., from October 17, 1876, to January 19, 1877.

94 days' service, at \$6 per day	\$564 00
94 days' subsistence, \$4.50 per day	423 00
Railroad fare :	
Washington to Richmond and return	11 50
Washington to Philadelphia and return	13 00
Washington to New York and return	20 00
Washington to New York and return	10 00
New York to Buffalo and return	24 00
New York to Boston and return	10 00
New York to Albany and return	9 50
New York to Washington and return	20 00
New York to Cincinnati	17 00
Cincinnati to Louisville and return	8 00
Cincinnati to Washington	16 00
Washington to New York and return	20 00
New York to Albany and return	9 50
Washington to Louisville and return	44 00
Washington to New York and return	20 00
Washington to Cincinnati	16 00
Cincinnati to New Orleans	35 00
Cincinnati to New Orleans, agent	35 00
New Orleans to Jackson and return	18 00
New Orleans to Cincinnati, agent	35 00
New Orleans to Washington	50 00
Washington to New York and return	20 00
New York to Albany and return	9 50
Washington to New York and return	20 00
Washington to New York and return	20 00
Paid services of special agent to assist, 20 days, \$5	100 00
Haid board of special agent, 20 days, \$3	60 00
Paid telegraphing	69 20
Paid cab, carriage, and wagon hire	58 50
Paid for information and necessary expenses to obtain the same in order to make my several missions successful	786 00
Total	2,571 70

WASHINGTON, D. C., *January 19, 1877.*

Received from David Thomson, disbursing clerk Department of Justice, the sum of twenty-five hundred and seventy-one $\frac{70}{100}$ dollars, in full for above account.

G. K. CHASE.

Approved.

ALPHONSO TAFT,
Attorney-General.

Statement of services and expenses of G. K. Chase, as agent Dep't of Justice, U. S. Secret Service, from January 19 to March 1st, 1877, inclusive of March 1st, 1877.

To 41 days' services, at \$10 per day	\$410 00
To 41 days' subsistence, \$4.50 per day	184 50
R. R. fare, Washington to New York and ret	20 00
R. R. fare, New York to Albany and ret	9 00
R. R. fare, Washington to New York and ret	20 00
R. R. fare, Washington to New York and ret'n	20 00
R. R. fare, Washington to New York and ret'n	20 00
R. R. fare, Washington to New York and ret'n	20 00
R. R. fare, Washington to New York and ret'n	20 00
Telegraph, \$4.80 ; cabs, \$12	16 80
Necessary expenses for information and cash paid for assistant in my several missions	112 00
Total	852 30
Corrected	852 30

WASHINGTON, D. C., *March 1st, 1877.*

Received from David Thomson, esq., disb'g clerk Dep't of Justice, the sum of eight hundred and fifty-two $\frac{30}{100}$ dollars, in full for above account.

P'd.

G. K. CHASE.

Mar. 2d, 1877.

Approved.

ALPHONZO TAFT,
*Attorney-General.*WASHINGTON, D. C., *June 1, 1877.*

Statement of account of services and expenses of G. K. Chase as agent of the Department of Justice (Secret Service), from March 1 to June 1, 1877, exclusive of both days.

Ninety-one days' service, at \$10 per day	\$910 00
Ninety-one days, subsistence, at \$4.50 per day	409 50
Railroad fare :	
Washington to New York and return	20 00
Washington to New York and return	20 00
Washington to Cincinnati and return	36 00
Washington to New York and return	20 00
Washington to New York and return	20 00
Washington to Columbus and return	34 00
Washington to New York and return	20 00
Washington to New York and New York to Chicago, Ill.	32 00
Sleeping-car Columbus to Chicago and R. R fare and ex. to Joliet	9 00
Two one-thousand-mile tickets over the Chicago and Northwestern Railroad, being the cheapest way to several points in Wisconsin, Iowa, and Minnesota, and nearly 800 miles of which I have for future use	60 00
Wagon (use of) from Stillwater to Saint Paul, Minn.	11 00
Railroad fare :	
Saint Paul to Sioux City and Yankton, D. T.	20 00
Yankton, D. T., to Omaha, via Sioux City	8 80
Omaha to Des Moines and Fort Madison	13 50
Fort Madison to Chicago	8 50
Chicago to New York	25 00
New York to Washington	10 00

48 EXPENDITURES IN THE DEPARTMENT OF JUSTICE.

Telegraphing and postage.....	\$17 65
Cab, carriage, and wagon hire.....	35 00
Cash paid for information necessary to the success of my several missions..	58 00
Total	1,797 95

All above R. R. fare include sleeping berth, except from Columbus to Chicago.

WASHINGTON, D. C., June 2, 1877.

Received from Mr. Samuel Milliken, disbursing clerk Department of Justice, the sum of seventeen hundred and ninety-seven $\frac{95}{100}$ dollars, in full for above account.

G. K. CHASE.

Approved June 2, 1877.

CHAS. DEVENS,
Attorney-General.

Statement of account of services and expenses of G. K. Chase, as agent Department of Justice (Secret Service) from May 31st to July 1st, 1877.

One month's services	\$250 00
30 days' subsistence at \$4 per day.....	120 00
Railroad fare, Washington to New York	10 00
Railroad fare, New York to Chicago.....	25 00
Railroad fare, Chicago to Rock Island and return	12 00
Railroad fare, Chicago to Louisville, Ky.....	13 25
Railroad fare, Louisville to Jackson, Miss.....	28 00
Railroad fare, from Jackson to Meridian and return, team, wagon and driver, subsistence of the same, expenses of witnesses, &c., to Kemper Co., Mississippi—A. McLellan matter.....	74 00
Railroad fare, Jackson to Chicago	32 50
Railroad fare, Chicago to New York.....	25 00
Railroad fare, New York to Washington.....	10 00
Telegraphing, \$31.23; cab and carriage, \$19.....	50 23
Total	649 98

WASHINGTON, July 5, 1877.

Received from Mr. Sam'l Milliken, disb'g clerk, Dep't of Justice, the sum of six hundred and forty nine $\frac{8}{100}$, in full for above account.

G. K. CHASE.

Approved.

CHAS. DEVENS,
Attorney-General.

I hereby swear that the within account is correct, and that the expenses therein charged were necessary.

G. K. CHASE.

Sworn and subscribed before me this fifth day of July, A. D. 1877.

[SEAL.]

JAMES F. ALLEN,
Notary Public.

WASHINGTON, D. C., Oct. 31, 1877.

Statement of services and expenses of G. K. Chase, as the agent of the Department of Justice (Secret Service), from June 30 to October 31, 1877, inclusive.

To four months' services, \$250 per month.....	\$1,000 00
To 123 subsistence, at \$4 per day	492 00
To railroad fare:	
Washington to Richmond and return	11 00
Washington to Pittsburg, with sleeping car.....	12 50
Pittsburg to Indianapolis, with sleeping car	15 50
Indianapolis to Saint Louis, with sleeping car	11 00
Saint Louis to New York, with sleeping car	32 50
New York to Washington, with sleeping car	10 00
Washington to Auburn, with sleeping car	19 00
Auburn to Chicago, with sleeping car.....	15 00
Chicago to Washington, with sleeping car	23 00
Washington to New York, with sleeping car	10 00
New York to Rochester and return, with sleeping car	18 50

To railroad fare:

New York to Washington, with sleeping car	\$10 00
Washington to Chicago, with sleeping car	23 00
Chicago to Yankton, with sleeping car	39 00
Yankton to Saint Paul, with sleeping car	28 00
Saint Paul to Deadwood, with sleeping car	48 50

To team, Deadwood to Sheridan, and return 50 00

To railroad fare:

Deadwood to Saint Paul, with sleeping car	48 50
Saint Paul to Chicago, with sleeping car	16 00
Chicago to Washington, with sleeping car	23 00
Washington to New York and return, with sleeping car	20 00

To telegraphing 71 20

To carriages and wagons. 63 00

To railroad fare, Washington to Columbus and return 32 00

Total 2,142 20

Received from Mr. Samuel Mulliken, disb'g clerk, Department of Justice, the sum of twenty-one hundred and forty-two $\frac{20}{100}$ dollars, full for above account.

G. K. CHASE.

Approved.

CHAS. DEVENS,
Attorney-General.

WASHINGTON, D. C., November 1, 1877.

G. K. Chase, being duly sworn, says that the within account is just and correct.

G. K. CHASE.

Sworn to before me this 1st day of November.

[SEAL.]

JAMES F. ALLEN,
Notary Public, Washington, D. C.

WASHINGTON, D. C., Feb. 1, 1878.

Statement of expenses and services of G. K. Chase, as the agent of Department of Justice (Secret Service), from November 1, 1877, to February 1, 1878.

To three months' service \$750 00

To 92 days' subsistence, \$4.00 per day 368 00

To railroad fare:

Washington to Trenton and return	13 50
Washington to New York and return	20 00
Washington to New York and return	20 00
Washington to New York	10 00
New York to Louisville	25 00
Louisville to Washington	23 00
Washington to Pittsburgh and return	22 00
Washington to New York and return	20 00
Washington to Danville and return	25 00
Washington to Philadelphia and return	12 50

To commissioner's fees and clerk at Danville 9 25

To clerk's fees, Allegheny, Pa 6 80

To paid for information, Danville (voucher filed with my report) 88 00

To telegraphing 41 60

To carriages and wagons 30 00

Total 1,484 65

Received from Samuel Mulliken, esq., disb'g clerk, Dept. of Justice, the sum of fourteen hundred and eighty-four $\frac{65}{100}$ dollars, in full for above account.

\$1,484.65.

G. K. CHASE.

Approved.

CHAS. DEVENS,
Attorney-General.

WASHINGTON, D. C., Feb. 2, '78.

I hereby certify that the within account is correct.

G. K. CHASE.

Sworn to before me this 2d day of February, 1878.

[SEAL.]

HOLMES E. OFFLEY,
Notary Public, D. C.

WASHINGTON, D. C., *March 1, 1878.*

Statement of expenses and services of G. K. Chase, the agent of the Department of Justice (secret service), from January 31 to March 1, 1878.

One month's services	\$250 00
28 days' subsistence, at \$4.00 per day	112 00
Fare, Washington to New York and return	20 00
Carriage, New York and Brooklyn and penitentiary	7 00
Fare, Washington to Brooklyn and return	20 00
Carriage, Kings County penitentiary	6 00
Telegraphing	5 20
Total	420 20

WASHINGTON, D. C., *March 5, 1878.*

Received from Samuel Mulliken, esq., disbursing clerk, Department of Justice, the sum of four hundred and twenty $\frac{20}{100}$ dollars, in full for above account.
\$420.20.

G. K. CHASE.

Approved.

CHAS. DEVENS,
*Attorney-General.*WASHINGTON, D. C., *March 5, 1878.*

I hereby certify that the within account is correct.

G. K. CHASE.

Sworn before me this 5th day of March, A. D. 1878.

[SEAL.]

HOLMES E. OFFLEY,
*Notary Public.*WASHINGTON, D. C., *April 1, 1878.*

Statement of account of services and subsistence of G. K. Chase, as the agent of the Department of Justice (secret service), from February 28 to April 1, 1878.

One month's services	\$250 00
31 days' subsistence, at \$4.00 per day	124 00
Expenses, R. R. fare, Washington to N. Y. and return	20 00
Expenses, R. R. fare, Washington to N. Y. and return	20 00
Expenses, R. R. fare, Washington to Albany and return	30 00
Telegraphing	8 30
Cabs, Kings Co. penitentiary and New York	13 00
	465 30

Received of Samuel Mulliken, esq., disb'g clerk, Dept. of Justice, four hundred and sixty-five $\frac{30}{100}$, in full for above account.

G. K. CHASE.

Approved.

CHAS. DEVENS,
*Attorney-General.*WASHINGTON, *April 6, 1878.*

I hereby certify that the within account is correct and just.

G. K. CHASE.

Sworn to before me this 6th day of April, 1878.

Subscribed and sworn to before me this sixth day of April, 1878.

[SEAL.]

HOLMES E. OFFLEY,
Notary Public.

WASHINGTON, D. C., May 1, 1878.

Statement of services and expenses of G. K. Chase, as the agent of the Department of Justice, from April 1 to May 1, 1878.

One month's service.....	\$250 00
30 days' subsistence, at \$4 per day	120 00
Railroad fares, &c.:	
Washington to Jersey City and return	20 00
Washington to New York and return	20 00
Washington to Buffalo and return	40 00
Washington to Jersey City and return	20 00
Telegraphing	26 20
Cabs, Jersey City, New York, and Brooklyn.....	17 50
Total	513 70

Received from Samuel Mulliken, esq., disb'g clerk Department of Justice, the sum of five hundred and thirteen $\frac{70}{100}$ dollars, in full for above account.

G. K. CHASE.

Approved.

CHAS. DEVENS,
Attorney-General.

I hereby certify that the above account is correct and just.

G. K. CHASE.

Sworn to before me this 30th day of May.

[SEAL.]

HOLMES E. OFFLEY,
Notary Public.

Notary Public, Washington, D. C.

WASHINGTON, June 30, 1878.

The United States to G. K. Chase, Dr.

To salary and expenses as special agent of the Department of Justice (Secret Service), from 1st of May to 30th of June, 1878, inclusive.

To salary, 2 months, at \$250	\$500 00
To 61 days' subsistence, at \$4.....	244 00
To fare from Washington to—	
New York and return	20 00
Auburn and return	25 25
New York and return	20 00
Rochester and return	26 90
New York	10 00
To fare from New York to Columbia, S. C., and return to Washington.....	55 30
To fare from Washington to—	
Trenton and return	8 25
Baltimore and return	2 00
New York and return	20 00
New York and return	20 00
To paid for telegrams	59 40
To cab and carriage, New York, Brooklyn, Jersey City, and Columbia, S. C.	13 50
Total	1,024 60

WASHINGTON, June 29, 1878.

Received from Samuel Mulliken, disbursing clerk Department of Justice, the sum of ten hundred twenty-four and $\frac{60}{100}$ dollars, in full of above account

G. K. CHASE.

Approved.

CHAS. DEVENS,
Attorney-General.

WASHINGTON, D. C., June 29, 1878.

I hereby certify the within bill to be correct.

G. K. CHASE.

Sworn to this 29th day of June, 1878.

[SEAL.]

HOLMES E. OFFLEY,
Notary Public, District Columbia.

52 EXPENDITURES IN THE DEPARTMENT OF JUSTICE.

WASHINGTON, D. C., *August 1, 1878.*

Statement of services and expenses of G. K. Chase, as the agent of Department of Justice (Secret Service), from July 1 to August 1, 1878.

One month's service	\$250 00
31 days' subsistence, at \$4 per day	124 00
R. R. fare, New York and return	20 00
R. R. fare, Washington to Chicago	24 50
R. R. fare, Chicago to Salt Lake City	106 50
R. R. fare, Cheyenne to Denver and return	16 00
R. R. fare, Salt Lake to Washington	129 00
Carriage and cab hire	11 00
Telegraph	18 91
Copies of affidavits, Salt Lake	6 00
Expense to Sing Sing prison, \$1.80; for carriage, \$2	3 80
Total	709 71

Received from Samuel Mulliken, esq., disb'g clerk Dept. of Justice, the sum of seven hundred and nine $\frac{71}{100}$, in full for above account.
\$709.71.

G. K. CHASE.

Approved.

CHAS. DEVENS,
*Attorney-General.*WASHINGTON, D. C., *August 8, 1878.*

I hereby certify the above bill to be correct.

G. K. CHASE.

Sworn to before me this 8th day of August.
[SEAL.]HOLMES E. OFFLEY,
*Notary Public.*WASHINGTON, D. C., *Oct. 31, 1878.*

Statement of expenses and services of G. K. Chase, as the agent of Dept. of Justice, from August 1 to November 1, 1878.

3 months' services	\$750 00
49 days' subsistence, at \$4 per day	196 00
Telegraphing	19 80
Carriage New York, Newark, Brooklyn	11 00
Expenses to New York and return, R. R. fare, &c	20 00
Expenses to Newark and return, R. R. fare, &c	19 00
Expenses to New York and return, R. R. fare, &c	20 00
Expenses to New York to Washington R. R. fare, &c	10 00
Expenses to Washington to New York and return	20 00
	1,066 30

WASHINGTON, D. C., *Nov. 1, 1878.*Received from Samuel Mulliken, esq., disb'g clerk Dept. of Justice, the sum of ten hundred and sixty-six $\frac{30}{100}$ dollars, in full of above account.

G. K. CHASE.

Approved.

CHAS. DEVENS,
Attorney-General.

I hereby certify the within account to be correct.

G. K. CHASE.

Sworn to before me, a notary public for the District of Columbia, this 1st day of November, 1878.
[SEAL.]

L. HUYCK,
Notary Public.

WASHINGTON, D. C., *January 1, 1879.*

Statement of services and expenses of G. K. Chase as the agent of the Department of Justice, from November 1, 1878, to January 1, 1879.

Two months' services.....	\$500 00
Sixty-one days' subsistence, at \$4.00 per day	244 00
Expenses, R. R. fare, &c.:	
Washington to New York and return	20 00
To New York.....	10 00
New York to Toledo and return to N. Y	40 00
New York to Washington.....	10 00
Washington to New York and return	20 00
Washington to New York and return	20 00
Washington to New York and return	20 00
Washington to New York and return	20 00
Washington to Philadelphia and return	15 00
Expenses telegraphing	12 28
Cab and carriage, New York and Brooklyn and Jersey City	13 50
	944 78

Received from Samuel Mulliken, esq., disb'g cl'k, Dept. of Justice, the sum of \$944⁷⁸/₁₀₀, in full for above account.

G. K. CHASE.

Approved.

CHAS. DEVENS,
Attorney-General.

I hereby certify the above account to be correct.

G. K. CHASE.

Sworn to this 7th day of January, 1879.
[SEAL.]L. HUYCK,
*Notary Public.*WASHINGTON, D. C., *May 1, 1879.*

Statement of expenses and services of G. K. Chase as the agent of the Department of Justice from January 1, 1879, to May 1, 1879.

To four months' services, \$250 per month.....	\$1,000 00
To 120 days' subsistence, at \$4.00 per day	480 00
Expenses, fare, &c., Washington to Jersey City and return	20 00
Expenses, R. R. fare, &c., Washington to Brooklyn and return	20 00
Expenses, R. R. fare, &c., Washington to Albany and return	30 00
Expenses, R. R. fare, &c., Washington to New York and return.....	20 00
Expenses, R. R. fare, &c., Washington to Philadelphia and return.....	14 00
Expenses, R. R. fare, &c., Washington to New York and return.....	20 00
Expenses, R. R. fare, &c., Washington to New York	10 00
Expenses, R. R. fare, &c., New York to Louisville, Ky	29 00
Expenses, R. R. fare, &c., Louisville to Washington	25 00
Expenses, R. R. fare, &c., Washington to Pittsburgh and return.....	15 00
Expenses, R. R. fare, &c., Washington to Brooklyn and return	20 00
Expenses, R. R. fare, &c., Washington to New Orleans	48 00
Expenses, R. R. fare, &c., New Orleans to Galveston, Tex	12 00
Expenses, R. R. fare, &c., Galveston to Austin.....	12 50
Expenses, R. R. fare, &c., Austin to Little Rock and Nashville.....	17 50
Expenses, R. R. fare, &c., Nashville to New York	36 50
Expenses, R. R. fare, &c., New York to Washington.....	10 00
Expenses, R. R. fare, &c., New York to Auburn and return	9 00
Expenses, R. R. fare, &c., Washington to Albany and return.....	30 00
Expenses, telegraphing	19 25
Expenses, carriage and cab, New York, N. O., Brooklyn, &c.....	21 00
Expenses paid for information	60 00
	1,978 75

54 EXPENDITURES IN THE DEPARTMENT OF JUSTICE.

Received from Samuel Mulliken, disb'g cl'k, Dept. of Justice, the sum of nineteen hundred and seventy-eight $\frac{75}{100}$ dollars, in full for above account.

G. K. CHASE.

Approved.

CHAS. DEVENS,
Attorney-General.

I certify the within account to be correct.

G. K. CHASE.

Sworn to this sixth day of May, 1879.

[SEAL.]

L. HUYCK,
Notary Public

WASHINGTON, D. C., *July 1, 1879.*

Statement of services and expenses of G. K. Chase as the agent of the Department of Justice from May 1 to June 30, 1879.

To 2 months' services.....	\$500 00
To 61 days' subsistence, at \$4.00 per day.....	244 00
R. R. fare and expenses, Washington to Albany and return.....	30 00
R. R. fare and expenses, Washington to New York and return.....	20 00
Paid clerk for copy of records.....	8 00
R. R. fare and expenses:	
Washington to New York and return.....	20 00
Washington to New York.....	10 00
New York to Toledo.....	20 50
Toledo to Detroit.....	2 00
Detroit to Chicago.....	11 50
Chicago to New York.....	25 00
New York to Washington.....	10 00
Washington to New York and return.....	20 00
Cab and carriage, N. Y., Brooklyn, Toledo, Chicago.....	17 00
Telegraphing.....	11 80
	949 80

Received from Samuel Mulliken, esq., disbg. clerk, Dept. of Justice, the sum of nine hundred and forty-nine $\frac{80}{100}$ dollars, in full for above account.

G. K. CHASE.

Approved.

CHAS. DEVENS,
Attorney-General.

I hereby certify the within account to be correct to the best of my knowledge and belief.

G. K. CHASE.

Sworn to this 15th day of July, 1879.

[SEAL.]

L. HUYCK,
Notary Public.

WASHINGTON, D. C., *Dec. 1, 1879.*

Statement of salary and expenses of Geo. K. Chase as the general agent of the Department of Justice from July 1 to December 1, 1879.

To 5 months' salary, \$250 per month.....	\$1,250 00
To 153 days' subsistence, at \$4.00 per day.....	612 00
To railroad fare and expenses:	
Washington to Albany and return.....	29 00
Washington to Louisville and return.....	40 00
Washington to New York and return.....	20 00
Washington to New York and return.....	20 00
Washington to New York.....	10 00
New York to Pittsburgh.....	12 50
Pittsburgh to Washington.....	10 25
Washington to Philadelphia and return.....	15 00
Washington to New York and return.....	20 00
Washington to Chicago.....	23 00
Chicago to Keokuk.....	13 00
Keokuk to Kansas City.....	13 25
Kansas City to Omaha.....	11 00
Omaha to Salt Lake City.....	87 50

To railroad fare and expenses:

Salt Lake City to San Francisco and return	\$78 00
Salt Lake City to Washington	109 00
Washington to Utica and return	28 00
Washington to New York and return	20 00
Washington to Philadelphia and return	15 00
Washington to New York	10 00
New York to Cincinnati and return	44 00
Paid for telegraphing	41 00
Paid for carriages and wagon, Kans. City, Salt Lake City, Albany, Pitts- burgh, &c	32 00
Paid for information and assistance in supervisor's account, New York, Brooklyn, Jersey City, and Philadelphia	70 00
	2,633 50

WASHINGTON, D. C., *December 1, 1879.*

Received from Samuel Mulliken, esq., disbursing clerk, Dept. of Justice, the sum of twenty-six hundred and thirty-three $\frac{50}{100}$ dollars, in full for above account.

G. K. CHASE.

WASHINGTON, *May 31, 1880.*

Statement of expenses and salary of G. K. Chase as the general agent Department of Justice from December 1, 1879, to December 18, 1879, and from February 1, 1880, to May 31, 1880, inclusive, having been absent on leave without compensation from Dec. 18, 1879, to February 1, 1880.

To 18 days' salary, Dec. 1 to Dec. 18, 1879, at \$250 per month	\$150 00
4 months' salary, Feb. 1, to June 1, 1880, at \$250 per month	1,000 00
439 day's subsistence, at \$4 per day	556 00
Railroad fare and expenses:	
From New York City to Atlanta, Ga.	33 50
From Atlanta to Washington, D. C.	25 00
From Washington to New York and return	20 00
From New York to Albany and return	9 50
From Washington to New York and return	20 00
From Washington to Philadelphia and return	11 00
From Washington to New York and return	20 00
From Washington to New York	10 00
From New York to Albany and return	9 00
From New York to Washington	10 00
From Washington to Albany and return	29 50
From Washington to New York	10 00
From New York to Detroit	21 00
From Detroit to Chicago	10 00
From Chicago to New York	26 00
From New York to Boston	7 50
From Boston to Albany	6 00
From Albany to Detroit	15 00
From Detroit to New York	21 00
From New York to Chicago and return	50 00
From New York to Washington	10 00
From Washington to New York and return	20 00
Expenses to obtain information for assistant and copies of record	35 00
Telegraphing	28 70
Carriages	39 50
	2 203 20

Received of Richard Devens, disbursing clerk, Department of Justice, two thousand two hundred and three and $\frac{20}{100}$ dollars, in full of the within account, this thirty-first day of May, 1880.

G. K. CHASE.

Approved.

CHAS. DEVENS,
Attorney General.

Sworn to this twenty-ninth day of May, 1880.

[SEAL.]

G. K. CHASE.
FRANK T. RAWLINGS,
Notary Public.

WASHINGTON, D. C., June 30, 1880.

Statement of services and expenses of G. K. Chase as the general agent of the Department of Justice, from June 10 to June 30, 1880, being absent on leave without compensation from June 1 to June 10.

To $\frac{2}{3}$ of a month's salary at \$250 per month.....	\$166 66
To 20 days' subsistence at \$4.00 per day	80 00
To R. R. fare and expenses, Washington to New York and return.....	20 00
To R. R. fare and expenses, Washington to New York and return.....	20 00
To R. R. fare and expenses, New York to Albany and return.....	9 00
To telegraphing.....	13 00
To carriages	9 00
To paid for information and expense of same	13 00
	330 66

Received from Richard Devens, esq., disbg. clerk, Department of Justice, the sum of three hundred and thirty $\frac{66}{100}$ dollars, in full for above account.

G. K. CHASE.

Approved.

CHAS. DEVENS,
Attorney-General.

Sworn to this thirtieth day of June, 1880.

FRANK T. RAWLINGS,
Notary Public.

[SEAL.]

WASHINGTON, D. C., Nov. 1, 1880.

Statement of salary and expenses of G. K. Chase as the general agent of the Department of Justice from July 1 to November 1, 1880.

Salary, four months, at \$250 per month	\$1,000 00
Subsistence, at \$4 per day, 123 days.....	492 00
Expenses of telegraphing during four months.....	83 28
Expenses of carriages and wagons during four months.....	87 00
Expenses of assistants, and paid to procure information.....	85 00
Railroad fare and expenses, Washington to New York and return.....	20 00
Railroad fare and expenses, Washington to Pittsburgh and return	22 00
Railroad fare and expenses, Washington to New York and return.....	20 00
Railroad fare and expenses, Washington to New York and return.....	20 00
Railroad fare and expenses, Washington to New York.....	10 00
Railroad fare and expenses, New York to Chicago	25 00
Railroad fare and expenses, Chicago to Omaha	18 40
Sleeping-car, Omaha to Ogden.....	8 00
Railroad fare and expenses, Ogden to Salt Lake and return	4 00
Sleeping-car, Ogden to San Francisco.....	6 00
Sleeping-car, San Francisco to Ogden.....	6 00
Railroad fare, Ogden to Salt Lake and return	4 00
Sleeping-car, Ogden to Omaha	8 00
Railroad fare and expenses, Omaha to Chicago.....	18 00
Railroad fare and expenses, Chicago to New York.....	25 00
Railroad fare and expenses, New York to Washington and return.....	20 00
Railroad fare and expenses, New York to Washington	10 00
Railroad fare and expenses, New York to Washington and return.....	20 00
	2,011 68

Received from Richard Devens, esq., disb'g clerk, Dept. of Justice, the sum of two thousand and eleven $\frac{60}{100}$ dollars, in full for above account.

Nov. 1, 1880.

Approved.

CHAS. DEVENS,
Attorney-General.
G. K. CHASE.

Subscribed and sworn to this eighth day of November, 1880.

G. K. CHASE.

[SEAL.]

WILL HAIGHT,
Notary Public, Washington, D. C.

I do certify on oath that I have performed the services stated in the within account; that the item charged for subsistence was actually paid by me and necessarily incurred, and that all other items therein charged for expenses were actually incurred and paid for in the performance of my duties as the general agent of the Department of Justice.

G. K. CHASE.

Subscribed and sworn to before me this 15th day of April, 1881.

[SEAL.]

WILL HAIGHT,
Notary Public.

WASHINGTON, D. C., March 1, 1880.

Statement of salary and expenses of G. K. Chase, as the general agent of the Department of Justice, from November 1, 1880, to Mar. 1, '81.

To four months' salary	\$1,000 00
To 120 days' subsistence, at \$4.00 per day	480 00
To railroad fare and expenses:	
Washington to Buffalo and return	36 75
Wash'n to New York and return	20 00
Wash. to Pittsburgh and return	21 00
Wash'n to New York and return	20 00
Wash'n to Albany and return	28 00
Wash'n to New York	10 00
New York to Detroit and return	43 00
New York to Wash'n	10 00
Wash'n to Albany and return	28 50
Wash'n to Buffalo and return	35 20
Wash'n to New York and return	20 00
Wash'n to New York and return	20 00
Wash'n to Albany and return	28 00
Wash'n to New York and return	20 00
Wash'n to Philadelphia and return	14 25
Wash'n to New York and return	20 00
Wash'n to New York	10 00
New York to Detroit	22 00
Detroit to New York	22 00
New York to Wash'n	10 00
Wash'n to Albany and return	28 00
To telegraphing four months	67 75
To carriages four months	43 00
To paid expenses of assistant and for information	113 00
To paid expenses of assistant	60 00
	\$2,230 45

WASHINGTON, D. C., March 1, 1881.

Received of Richard Devens, disb'g cl'k Department of Justice, the sum of two thousand two hundred and thirty dollars and forty-five cents (\$2,230.45) in full of the above account.

G. K. CHASE.

Approved.

CHAS. DEVENS,
Attorney-General.

WASHINGTON, D. C., Mar. 2, 1881.

I certify the within account to be true.

G. K. CHASE.

Sworn to this 2d day of March, 1881.

[SEAL.]

WILL HAIGHT,
Notary Public.

I do certify on oath that I have performed the services stated in the within account, that the item charged for subsistence was actually paid by me and necessarily incurred, and that all the items therein charged for expenses are actually incurred

and paid by me in the performance of my duties as the general agent of the Department of Justice.

G. K. CHASE.

Subscribed and sworn to before me, this 18th day of April, 1881.

[SEAL.]

WILL HAIGHT,
Notary Public.

WASHINGTON, D. C., May 31, 1881.

Statement of salary and expenses of G. K. Chase, as the general agent of the Department of Justice from March 1 to June 1, 1881.

To three months' salary at \$250	\$750 00
To 92 days' subsistence at \$4	368 00
To R. R. fare and expenses Washington to New York and return	20 00
To R. R. fare and expenses Washington to New York and return	20 00
To R. R. fare and expenses Washington to New York and return	20 00
To R. R. fare and expenses Washington to New York and return	18 00
To R. R. fare and expenses Washington to New York and return	18 00
To R. R. fare and expenses Washington to New York and return	18 00
To R. R. fare Washington to N. Y. and expenses	9 00
To R. R. fare New York to Rochester and expenses	9 25
To R. R. fare and expenses Rochester to Auburn	1 54
To R. R. fare and expenses Auburn to New York	8 60
To R. R. fare and expenses New York to Washington	9 00
To paid expenses of assistant	46 69
To carriage	9 00
To telegraphing	34 50
	\$1,359 58

Received of Richard Devens, disbursing clerk Department of Justice, the sum of thirteen hundred fifty-nine dollars and fifty-eight cents (\$1,359.58) in full for the above account.

G. K. CHASE.

Approved.

S. F. PHILLIPS,
Acting Attorney General.

I do certify on oath that I have performed the services stated in the within account, that the item charged for subsistence was actually paid by me and necessarily incurred, and that all other items therein charged for expenses are actually incurred and paid by me in the performance of my duties as the general agent of the Department of Justice.

G. K. CHASE.

Sworn to and subscribed before me, this 31st day of May, 1881.

[SEAL.]

WILL HAIGHT,
Notary Public.

WASHINGTON, D. C., June 30, 1881.

Statement of $\frac{3}{4}$ salary and expenses of G. K. Chase, as the general agent of the Department of Justice from June 1, to July 1, 1881.

To salary one month	\$250 00
To subsistence 30 days at \$4.00 per day	120 00
To R. R. fare and expenses Washington to N. Y. and return	18 00
To R. R. fare and expenses Washington to N. Y. and return	18 00
To carriages	4 00
To telegraphing	12 60
	\$422 60

Received from Richard Devens, disbursing clerk, Department of Justice, the sum of four hundred and twenty-two dollars and sixty cents (\$422.60) in full for the above account.

G. K. CHASE.

Approved,

S. F. PHILLIPS,
Attorney-General.

I do certify on oath that I have performed the services stated in the within account, that the item charged for subsistence was actually paid by me and necessarily incurred and that all other items therein charged for expenses are actually incurred and paid by me in the performance of my duties as the general agent of the Department of Justice.

G. K. CHASE.

Sworn and subscribed before me, this 30th day of June, 1881.

[SEAL.]

WILL HAIGHT,
Notary Public.

WASHINGTON, Dec. 31, 1881.

Statement of $\frac{3}{4}$ services and expenses of G. K. Chase, as the general agent Department of Justice, from Dec. 1 to Jan'y 1, 1882.

To one month's salary, at \$250 per month	\$250 00
To 31 days' subsistence, at \$4 per day	124 00
To R. R. fare & expenses Washington to N. Y. and return	18 00
To telegraphing	6 18
	398 18

WASHINGTON, D. C., Dec. 31, 1881.

Received from Richard Devens, disbursing clerk Department of Justice, the sum of three hundred and ninety-eight $\frac{18}{100}$ dollars, in full, for above account.

G. K. CHASE.

Approved.

S. F. PHILLIPS,
Acting Attorney-General.

I do certify on oath that I have performed the services stated in the within account, that the item charged for subsistence was actually paid by me, and that all other items therein charged for expenses were actually incurred and paid by me.

G. K. CHASE.

Sworn to this 31st day of December, 1881.

[SEAL.]

WILL HAIGHT,
Notary Public.

WASHINGTON, D. C., Dec. 1, 1881.

Statement of account for services and expenses of George K. Chase, as general agent of the Department of Justice, from November 1 to December 1, 1881.

Salary per month	\$250 00
30 days' subsistence, at \$4.00	120 00
R. R. fare and expenses to New York and return from Washington	18 00
R. R. fare and expenses Washington to New York and return	18 00
To telegraphing	3 00
	\$409 00

I do certify on oath that I have performed the services stated in the within account, that the item charged for subsistence was actually paid by me, and that all other items therein charged for expenses were actually incurred and paid by me in the performance of my duties as the general agent of the Department of Justice.

G. K. CHASE.

Subscribed and sworn to before me this 1st day of December, 1881.

[SEAL.]

WILL HAIGHT,
Notary Public.

WASHINGTON, D. C., Dec. 1, 1881.

Received of Richard Devens, disbursing clerk of the Department of Justice, four hundred and nine dollars (\$409), in full of the above account.

G. K. CHASE.

Approved.

S. F. PHILLIPS,
Acting Attorney-General.

WASHINGTON, D. C., Oct. 1, 1881.

Statement of salary and expenses of G. K. Chase, as general agent of the Department of Justice, from July 1 to October 1, 1881.

To three months' salary, \$250 per month	\$750 00
To 92 days' subsistence, \$4.00 per day	368 00
To R. R. fare and expenses Wash'n to New York and return	18 00
To R. R. fare and expenses Wash'n to New York and return	18 00
To R. R. fare and expenses Wash'n to New York and return	18 00
To R. R. fare and expenses Wash'n to New York and return	18 00
To telegraphing	9 00
	\$1,199 00

I do certify on oath that I have performed the services stated in the within account, that the item charged for subsistence was actually paid by me and necessarily incurred, and that all other items therein charged for expenses are actually incurred and paid by me in the performance of my duties as the general agent of the Department of Justice.

G. K. CHASE.

Subscribed and sworn to before me this 3d day of October, 1881.

[SEAL.]

WILL HAIGHT,
Notary Public.

Received of Richard Devens, disbursing clerk Department of Justice, the sum of eleven hundred and ninety-nine dollars (\$1,199.00) in full of above account.

G. K. CHASE.

Approved.

S. F. PHILLIPS,
Acting Attorney-General.

WASHINGTON, D. C., November 17, 1881.

Statement of account of services and salary of G. K. Chase, general agent of the Department of Justice, from October 1 to November 1, 1881.

One month's salary	\$250 00
Thirty-one days' subsistence, at \$4.00	124 00
Telegraphing	5 20
	\$379 20

I do certify on oath that I have that I have performed the services stated in the within account; that the item charged for subsistence was actually paid by me, and necessarily incurred, and that all other items therein charged for expenses are actually incurred and paid by me in the performance of my duties as the general agent of the Department of Justice.

G. K. CHASE.

Subscribed and sworn to before me this 17th day of November, 1881.

[SEAL.]

WILL HAIGHT,
Notary Public.

Received of Richard Devens, disbursing clerk of the Department of Justice, the sum of three hundred and seventy-nine dollars and twenty cents (\$379.20) in full of the above account.

G. K. CHASE.

NOVEMBER 18, 1881.

Approved.

S. F. PHILLIPS,
Acting Attorney-General.

Statement of account of Geo. K. Chase, general agent Department of Justice, for services and expenses from January 1 to Feb'y 1, 1882.

To one month's salary	\$250 00
" 31 days' subsistence, at \$4 per day	124 00
" R. R. fare and expenses, Wash'n to New York and return	18 00
" telegraphing	7 00
" R. R. fare and expenses of assistant Washington to New York and return	26 50
	\$425 50

I do certify on oath that I have performed the services stated in the within account that the item charged for subsistence was actually paid by me, and that all other items therein charged for expenses were actually incurred and paid by me in the performance of my duties as the general agent of the Department of Justice.

G. K. CHASE.

Subscribed and sworn to before me this 31st day of January, 1882.

[SEAL.]

WILL HAIGHT,
Notary Public.

FEB. 1st, 1882.

Received of Richard Devens, disbursing clerk Department of Justice, the sum of four hundred and twenty-five dollars and fifty cents (\$425.50), in full of the above account.

G. K. CHASE.

Approved.

BENJAMIN HARRIS BREWSTER,
Attorney-General.

WASHINGTON, May 15, 1884.

O. E. MITCHELL sworn and examined.

By Mr. HEMPHILL :

Question. Please state your age, residence, and occupation.—Answer. I reside in the city of Atlanta, Ga.; I am thirty-five years of age; I am chief deputy United States marshal, under Marshal Longstreet.

Q. State now in as brief a way as you can what you desire to put before the committee.—A. When General Longstreet was here before the committee there was testimony about Mr. Robinson, one of his deputies, who had been convicted and sent to the Albany penitentiary, and whose term hadn't expired, and the facts connected with his accounts were not known to the marshal except in general outline. Since Mr. Robinson's release he has gathered evidence among the court records, and from the affidavits of different parties who worked with him or under him, and he desires to have his case presented to this committee, or an analysis of them. He was to come here himself, but he is too poor to pay his expenses, and the general insisted on my going through the accounts with him, and aiding him in getting them up, and showing that these expenditures as made by General Longstreet were correct and right, and that the treatment that his account had received at the hands of the Department of Justice was wrong; that the disallowances, some of them, or the majority of them, were not in accordance with the facts.

Mr. HEMPHILL. I do not know that it is necessary for you to make a general statement of that kind; you had better take up the details and show that as you proceed.

The WITNESS. You remember that in General Longstreet's testimony before this committee he testified that Mr. Robinson should have had an opportunity of explaining his accounts; and Mr. Ballin, I believe, testified that he promised to give him the opportunity, but that no explana-

tion would have made the result different. Here are some affidavits that have been made as to that agreement between Mr. Ballin and Mr. Robinson.

Mr. HEMPHILL (after inspecting the papers). These papers have never been filed in the office of the Attorney-General or in the Department of Justice, I suppose?

The WITNESS. No, sir. We did not know of the existence of these papers. We knew that there was an understanding of that sort, but no affidavits on the subject had ever been furnished the office.

Mr. HEMPHILL. All these papers are of the same purport, are they?

The WITNESS. Yes, sir; of the same purport. Some of them were sworn to before a justice of the peace.

Mr. HEMPHILL. I do not see how we can receive these under the rules which we have laid down and of which General Longstreet was apprised when he was here. The rule stated was that no affidavit should be received which had not been filed in the Department of Justice previous to the investigation, and thus become a part of the records of that office.

The WITNESS. It is our purpose to file these with the Comptroller in answer to these disallowances.

Mr. CRISP. We are not investigating the disallowances. What would be the purpose of that?

Mr. HEMPHILL. It would be simply to show that Robinson did not have an opportunity to explain his accounts.

The WITNESS. That is the main thing.

Mr. VAN ALSTYNE. He did have an opportunity in court and did not do it satisfactorily to the jury; is not that the fact?

The WITNESS. Yes, sir. But we contend that if he did not feel that he was innocent, and if his lawyers had understood the fee-bill as well as they should have done, he would not have been convicted.

Mr. HEMPHILL. Of course we could not revise the judgment of the court in that way.

The WITNESS. No, sir; I understand that. Well, I hardly know how to present this evidence. We have a number of affidavits here, but under your ruling I hardly see how I can get them in. I suppose that these certified copies of his warrants and bonds would be received.

Q. Has there been any question that these defendants did give bonds?—A. There are a number of defendants and the accounts have been disallowed by Mr. Ballin, accounts in the indictment under which Mr. Robinson was tried.

In the case of *United States vs. Fayette Smith* there was a disallowance made. That disallowance was properly made by Mr. Ballin on the ground that the warrant was not signed by the commissioner, but as a matter of fact the warrant had been regularly entered in our office and had the seal of the commissioner, although he had omitted to sign it; therefore, while we admit the technical correctness of the disallowance, no bad motive can be imputed to the officer concerning it. There was another case similar to this, and upon that case a question was put by Judge Crisp, I think, and Marshal Longstreet stated that the warrant was not signed. That was a mistake. It was in the case of the *United States vs. William Cavender*. Here is what the examiner says about it:

Case *United States vs. William Cavender*: All fees for travel service in this case disallowed. The warrant was not signed by the commissioner who issued it; it was no legal warrant, and the defendant was dismissed on that account, and no fees can be allowed the marshal for serving it.

Now, the affidavit was not attested by the commissioner, but the warrant was signed, and it was issued on the day that the affidavit was taken.

Q. The warrant was signed, but the affidavit was not signed by the commissioner?—A. No, sir.

Q. Was that disallowed?—A. Yes, sir; on the ground that the warrant was not signed by the commissioner.

Q. Then, what you desire to say about it is that it was not signed, but that there was no improper motive?—A. No, sir; I desire to say in this case that it *was* signed, and that the deputy did exactly right in serving it. It was a neglect of the commissioner not to attest the affidavit, but he went forward and issued the warrant. Now, here is the case of the United States *vs.* Alfred Garrett, in which there was \$24.74 disallowed, upon the ground that there was no surrender of the defendant.

Q. That is, that he was not turned over to the officer?—A. Yes, sir. Now, in this case I have a certified copy of the surrender, or the commitment issued upon the surrender, of the parties in the case by their bail, taken from the clerk's office and certified to by the clerk, which shows that there was a surrender. The point that we make in this case is that the facts in the case are entirely ignored by the examiner.

Q. Do you know anything about the case of your own knowledge?—A. Nothing whatever; all that I go by is this certified copy from the clerk's office. I stated in the beginning of my testimony that all these facts were furnished me by Mr. Robinson, but as to the certified copies, I aided him in getting them up—a great many of them. I have no individual interest whatever in the matter. I never spoke to the man a half a dozen times in my life until very lately.

Mr. CRISP. Let me make a suggestion, Mr. Mitchell. If there is any part of the evidence before us which contains specific charges against Robinson, and if you can present in his behalf any evidence which refutes or tends to refute those charges, of course we will accord you the opportunity to present it. The charges upon which he was indicted were the only ones, I think, that came before us. That voluminous book of disallowances was not in evidence here. It will not be printed in any report or document of ours. There was reference made, however, to certain items upon which Mr. Robinson was indicted and convicted. If you have any evidence there on his behalf to show that any of those charges, although found true by that jury, were really untrue, we will accord him the privilege of putting that on record here, so that it may go with the testimony on the other side. But the general disallowances we have not got here, and we have not undertaken at all to adjust any of those accounts.

The WITNESS. I thought that when General Longstreet came on the stand as a witness he expected to show before this committee the character of the expenditures made in his office, and that they were not made improperly as stated by the examiners, but were made legitimately and for services legitimately rendered.

Mr. CRISP. Yes; anything of that kind on behalf of General Longstreet is admissible; but I understood that you were speaking particularly about Mr. Robinson. Of course, any intimation of improper charges on the part of General Longstreet he will have the opportunity of refuting here.

The WITNESS. Well, I will take up the items upon which Mr. Robinson was convicted. Here is the case of Andrew Woody, in which Mr. Ballin makes a direct charge that there was no necessity for the man

being carried before the commissioner, and says that the clerk had inserted in the warrant that the prisoner's own recognizance might be taken. Now, here is a certified copy of the warrant, and there is no such insertion in it.

By Mr. CRISP:

Q. You say the statement was made by Mr. Ballin, that that was inserted in the warrant?—A. Yes, sir. He says that the defendant was arrested on a bench warrant, and that by order of the court the clerk inserted that his own recognizance should be taken for his appearance. Now, we have an order of court that in vacation, a bench-warrant being issued by the clerk, the bond may be fixed upon the face of it. In that event the deputy marshal, obeying the order of the court, carries the prisoner before the nearest commissioner, and that was done in this case.

Q. Then the statement of the examiner as to the insertion being made there is not true?—A. No, sir; it is not true.

Here is a case on another bench warrant, the case of the United States *vs.* Hardy S. Kirby, and also the case of the United States *vs.* Henry M. Kirby. Mr. Ballin charges that these three were taken on the same day. The charge here for attendance on the commissioner's court is disallowed, as charge for attendance is allowed him in the case of Robert Bennett, who was before the commissioner at the same time, and not on February 13, 1882, as charged.

Now, you see the charge is that this bond was taken on the 15th and that the case of Bennett was taken on the same date, and the charge is allowed in the Bennett case. In the certified copy of the warrant under which Bennet was arrested the date is the 13th. This date, the 13th, is declared fictitious by Mr. Ballin, and he claims that it was on the same date with this other, but here I show you the one taken on the 13th and the other on the 15th. There are a number of accounts just like that, where it was claimed that they were fictitious and fraudulent, and those accounts have been thrown out and we have not been able to get them allowed.

In the cases of the United States *vs.* Andrew Woody, the original commitment shows that the 22d day of July is not a fictitious date, as charged by the examiner.

In the indictment of Mr. Robinson it was charged that, in the case of Alexander Gilreath, he had rendered a false account for \$4, and in the report of disallowances there is a statement showing that \$2 of that \$4 was allowed as proper, and \$2 disallowed. General Longstreet was asked when he was upon the stand in regard to special deputies. Now, in this case there were four arrests made at the same time. This man had two or three men employed under him, and those men had their horses, and their expenses were charged in these accounts as actual expenses in endeavoring to make the arrests. In that way the accounts have been allowed where they have been made by special deputies. But the point was raised by Mr. Ballin that this service was entirely illegal. We contend that that service was not illegal, from the fact that section 788 of the statutes confers upon the marshal and his deputies the same power as is exercised by the sheriff and his deputies in the State where the service is rendered. Now, in the State of Georgia the sheriff can appoint; and in one notable instance there was a case before the circuit court (in 3 Ga., I think) where Judge Nesbit, the chief justice, rendered the discision, and went so far as to say that a deputy could be appointed by the sheriff or by his deputy—that he could be depu-

tized simply by word; and under that law our deputies deputized men to aid them in making arrests. Last year the comptroller gave us a circular decision that that was illegal, and that no further such accounts could be allowed in such cases even for guards; and since that time every special deputy has been appointed by the office itself. General Longstreet, in order to aid the deputies in making these appointments, had commissions struck off with his name printed, and whenever a deputy would apply for the appointment of special deputies the marshal would send him one of these commissions and the appointment was regarded as coming from himself. We have eleven regular deputies in the field, and two in the office, myself and the clerk. One of us stays in the court-room, so that when it happens that there is no deputy around, and service has to be made at once, we perform that duty; we hold the appointments for that purpose. Then we have some little perquisites which come into the office in civil cases and which we could not charge unless we were deputy marshals. We have, I think it is, some ten or eleven special deputies. They are deputized by the office to aid these men in different Territories.

Q. Do the special deputies give bond and take the oath?—A. Yes, sir; they take the oath. The oaths are filed in the clerk's office and the bonds are filed. Owing to their being subdeputies and doing very little work except in aiding the other deputies, we require but very light bonds from them. In other cases we require a \$2,000 bond.

In the case of Alonzo Strong the examiner claims that Robert Bennett was not serving on the 19th of October; that there was no court held on the 19th of October, 1881, and that no such charge could properly be made. Now, the certified copy of the witness-roll in that case shows that court *was* held on the 19th and 20th of October.

Q. Have you any further statement to make now in connection with these accounts under our ruling?—A. No, sir.

Q. Is Mr. Robinson, the deputy, at large now?—A. Yes, sir; he was released on the 1st day of March or April, 1884. He served ten months.

Q. Did his term expire, or was he pardoned?—A. His term expired. He was very anxious to get a pardon and there were efforts made to get him pardoned, but his time expired before those efforts were successful.

Q. Do you know who was acting in his behalf?—A. Only from hearsay.

Q. How long have you been in the office?—A. I went in on the 19th of June last year.

Q. Does your position keep you in the office?—A. Yes, sir; I am chief deputy there.

Q. Your business, then, is more that of a clerk and bookkeeper than that of a deputy to execute processes?—A. Yes, sir. I seldom execute any process at all. When we have no deputies or bailiffs, and the court is not in session, I carry prisoners to and from the jail; and I have made one trip to the penitentiary with the Georgia Ku-Klux.

Q. What efforts are made in your office to verify the accounts of the deputy marshals?—A. Each deputy is required, when he makes out his account, to date the mileage from the post-office nearest to the place where the arrest is made, so if he puts down the correct place, we know pretty nearly the distance that he has traveled in making the arrest, or the distance that he has to return. If that mileage is charged anything like exorbitantly, or if we think it is, we call the attention of the deputy to it before the account is copied, and if his explanation is satisfactory, it is so specified. The account is then copied, and at the end of the quarter it is forwarded to the Department for payment. We give the

accounts the most rigid scrutiny, and, in fact, we have been cutting out items in the accounts, owing to these previous disallowances that the comptroller, in that letter of last week, says that we are entitled to.

Q. What is your rule about guards?—A. Guards are seldom used now, at all. As they cannot be used in attendance upon court (they can be used in field work, but not in attendance before court) we appoint in the Atlanta territory, or in any territory in the division, one man as head deputy, and if he wants a special deputy under him to help him, we appoint one. But the accounts are made out differently now. The head deputy has his page upon our books and his account is sworn to the same as that of any other deputy. They are all under bond, and their oaths of office are filed in the clerk's office.

Q. How many deputies have you?—A. We have eleven in the field and two in the office. But under the fee-bill system there is hardly a living in it for any of them. Another thing I would like to state here is that we have a force of very good men. We have no bad men. I believe that the character of our deputies was questioned here along in the first part of your investigation.

Q. Yes. How long have those men of whom you speak been employed there?—A. Some of them have been employed for several years, and some of them are new men. We have weeded out the bad ones.

Q. Do you know how many commissioners there are in Atlanta?—A. Yes, sir; there are six.

Q. What is the necessity for so many?—A. There is none whatever.

Q. One or two could do all the work, I suppose?—A. Well, it goes sort of by seasons; one commissioner will get on the scent of something and he will get a week or two of work out of it. There is where the difficulty is. It is not in the marshal's office. Under Judge Woods's decision the marshal is compelled to execute the writs, and he has no discretion whatever in the matter. Judge Woods issued an order requiring all warrants in internal-revenue cases to be approved by the deputy collector before they could be placed in the hands of the marshal. Those warrants are issued by the commissioner upon the affidavit of some one, the party is taken before the deputy collector and examined, and if he sees fit he approves it, the warrant, and if it is placed in our hands and we execute it without question and without knowing whether it is a good one or not.

Q. That is right. An executive officer has no right to have discretion about serving a legal process. He does not have it under the State laws?—A. Well, there is where we have our trouble. These subpoenas, warrants, and all their court papers are issued in that way. For instance, take up this case of a *habeas corpus ad testificandum* that was ventilated before your committee. There was a mistake made in that by Lee Longstreet which the general attempted to rectify. Now those are not writs of *habeas corpus*; they are simply orders of court. Last week we had some cases of that kind. The commissioner issued his order, but the deputy, obeying the instructions from the office, came to the office before he would execute it and we went to Judge McKay and asked him to indorse it—to issue a court order. He sat down and wrote—

The within order is hereby approved, and the jailer will turn over to Deputy-Marshal Hubbard the prisoner named, to testify, &c.

Q. Those are not regular writs of *habeas corpus*, but the one that Lee Longstreet was examined about, as I recollect, was a case of the delivery of a prisoner for the purpose of giving his testimony upon the order

of the district attorney, and not upon the order of a judicial officer at all?—A. Yes, sir.

Q. Now, does that practice obtain there, and is it the rule that, on the order of the district attorney, the jailer will deliver a man to testify?—

A. The district attorney directs his order to James Longstreet, United States Marshal, saying: "You are hereby directed to take so and so, or bring him to such or such a point"; stating the purpose it is for. Sometimes it is for the purpose of giving information; sometimes for the purpose of testifying. Now, we file away that order of the district attorney in the office, for our own protection, and we issue an order to the jailer to turn over the prisoner.

Q. You do that, then, on the order of the district attorney?—A. Yes, sir.

Q. What authority has he to order a prisoner around in that way?—

A. None, whatever, that I know of, except the practice there. We do a great many things down there under the direction of the district attorney and the judge that I suppose might be questioned as to their propriety, but they are done to save time.

Q. Is there anything else that you wish to state?—A. I would like to state that the accounts are kept by Mr. W. B. Fitzsimons, who has had an experience in the field of some five or six years, and has had disallowances in his own accounts, and who is really the best qualified man in the force to keep those accounts in accordance with the rulings of the Department and the fee-bill.

Adjourned.

WASHINGTON, D. C., *June 25, 1884.*

JAMES A. WINSTON sworn and examined.

By the CHAIRMAN:

Question. Please state your residence, age, and present occupation.

—Answer. I shall be 60 years old in August. I reside in Springfield, Ill. I am a lawyer.

Q. Have you held any official position in the State of Illinois?—A. Yes, sir; for ten years I was connected with the circuit clerk's office, in Sangamon County; eight years of which I was deputy clerk, and eight years principal. My time as clerk expired in December, 1880.

Q. Then you have had considerable experience in the matter of court expenses and the accounts of court officials?—A. Yes, sir; I have been connected with the State circuit court for thirty years, but not so long in Sangamon County.

The CHAIRMAN. Mr. Winston, the witness, is the gentleman who was designated by the chair to assist Mr. Bowman in making a special examination into the expenditures of the United States courts in Illinois.

Q. Please state briefly what duties you have performed in pursuance of your designation to assist Examiner Bowman in his investigation in Illinois.—A. In the first place, we got the books and papers connected with the marshal's office. We got permission of the judge to get such papers as we needed. We then examined the accounts rendered by the ex-marshal, Mr. Wheeler, who had been marshal for four years, and compared those accounts with the books he had kept. We understood that our time was limited, that we had only a certain time in which to perform this work, in order to make a report before Congress adjourned. We looked over the accounts to see if we could find any irregularities on the face of them. We selected out a number of cases, and, after

being engaged nearly a week upon this comparison of the accounts with the books, we started in the southern part of the State, the southern part of the southern district. We went to the parties who had been arrested, and also to reputable persons, in their neighborhood, to get such testimony as we could in regard to those accounts. After having visited the greater portion of the southern part of the State, and gathered this testimony upon these irregularities, we returned to Springfield. We then got Mr. Wheeler, the ex-marshal, before us, who made a statement in regard to the transactions of his office. Then we got his principal clerk, Mr. J. M. Reece, and he made *his* statement. We have the testimony that we took, and from that testimony we have made proofs, which are embodied in our report. The report describes every case investigated. There were 104 cases investigated, and the irregularities, or what you would term, I suppose, fees charged not allowed by law, amounted to \$2,152.22 in the 104 cases.

Q. Had the marshal presented accounts upon those and obtained payment of them from the Government of the United States?—A. Yes, sir; his statement shows that.

Q. What was the nature generally of those charges not authorized by law?—A. Well, sir, there were guards charged for where they had no guards employed; mileage charged where the mileage was not traveled upon the writs; deputy marshals charged for that were fictitious; the names of men put in who did not act; transportation charged for prisoners where they were not transported by the marshal or transportation paid for; charges for subsistence furnished prisoners, the subsistence not having been furnished; charges for attendance before the commissioner with the prisoners when the attendance was, in many cases, fictitious, the persons whose names were put in not having attended; and in many cases charges for guards before the commissioners which we considered not necessary at all. I believe those are the principal irregularities. There were subpoenas sent out by mail to deputies in remote parts of the State, and served and returned without fees, and the fees were placed upon the writs after they were received at the marshal's office and the mileage charged in all cases.

Q. That is where writs were sent by mail?—A. Yes, sir; re-sent by mail to the party acting as deputy, and returned by mail. Our investigation commenced with the accounts, beginning on the 1st of January, 1880, and extended down to December 30, 1883, covering four years.

Q. How many criminal cases were there in the district court for the southern district of Illinois during the last four years?—A. There were 843 cases on the judge's criminal docket from January 30, 1880, up to December 31, 1883.

Q. Do you remember how those cases were disposed of?—A. I have compiled from the docket a brief statement which will give you that information, and which I now present as a part of my testimony:

Judge's docket.—January 1, 1880, to January 1, 1884.

Number of cases.....	843
Violation of internal-revenue law	528
Violation of postal law	64
Counterfeiting, &c	111
Conspiracy to defraud United States	22
Violations of pension law	53
Impeding and obstructing administration of justice	6
Attachment for contempt of court	36
Frauds committed as judges and voters at Congressional election.....	11

Embezzlement	3
Acting as officers of vessels without license	3
Violations of census laws	2
Perjury	1
Habeas corpus	1
Violation of bankrupt law	1
Violation of civil-rights law	1
Total	843

Violations of internal-revenue laws, January 1, 1880, to January 1, 1884 (528 cases).

Fines assessed	\$22,579 00
Fines collected	9,901 00
Costs paid to clerk	6,109 00
Cases dismissed by United States	13
Cases dismissed by United States on payment of costs	4
Pleas of guilty entered and fines assessed	400
Suits abated	2
Trial by the court and finding for defendant	27
Trial by the court and judgment and fine	2
Trial by jury and verdict defendant guilty	19
Trial by jury and verdict defendant not guilty	42
Pleas of guilty entered and jail sentence	7
Pleas of guilty entered and fine and jail sentence	12
Total	528

Violations of postal laws (64 cases).

Fines assessed	\$675 00
Fines collected	275 00
Costs paid to clerk	162 20
Cases dismissed by United States	17
Trial by jury and verdict not guilty	10
Trial by jury and verdict guilty	17
Pleas of guilty entered	18
Trial by the court and finding for defendant	2
Total	64

Conspiracy to defraud the United States (22 cases).

Fines assessed	\$50 00
Fines collected	50 00
Costs paid to clerk	237 55
Cases dismissed by the United States	11
Trial by the court and finding for defendant	3
Trial by jury and verdict defendant not guilty	5
Trial by jury and verdict defendant guilty	1
Pleas of guilty entered	2
Total	22

Counterfeiting, passing, &c., (100 cases).

Fines assessed, none; fines collected, none; costs paid to clerk, none.

Cases dismissed by the United States	24
Trial by jury, verdict guilty	27
Trial by jury, verdict not guilty	17
Pleas of guilty entered	29
Trial by the court, finding defendant guilty	1
Trial by the court, finding for defendant	2
Total	100

Attachment for contempt (36 cases).

All of the 36 cases dismissed by the United States.

Violations of the pension laws (53 cases).

Fines assessed.....	\$3,461 00
Fines collected.....	1,001 00
Costs paid to clerk.....	411 59
Cases dismissed by the United States.....	6
Pleas of guilty entered.....	21
Trial by jury and verdict defendant guilty.....	5
Trial by jury and verdict defendant not guilty.....	1
Trial by court and finding defendant guilty.....	2
Total.....	35

Embezzling (3 cases).

Fines assessed.....	\$100 00
Fines collected.....	100 00
Costs paid to clerk.....	174 98
Case tried by jury and verdict defendant guilty.....	1
Case dismissed by the United States.....	1
Total.....	2

Frauds as judges and voters at Congressional election (11 cases).

Fines assessed.....	\$525 00
Fines collected.....	500 00
Costs paid to clerk.....	453 35
Cases dismissed by the United States.....	3
Trial by jury, verdict defendant guilty.....	1
Trial by jury, verdict defendant not guilty.....	3
Plea of guilty entered.....	1
Total.....	8

Violations of census laws (2 cases).

Fines assessed.....	\$125 00
Fines collected.....	125 00
Costs paid to clerk.....	65 00
Pleas of guilty entered.....	2

Impeding and obstructing the administration of justice (6 cases).

Fines assessed.....	\$25 00
Fines collected.....	25 00
Costs paid to clerk.....	10 00
Cases dismissed by the United States.....	5
Plea of guilty entered.....	1
Total.....	6

Q. Have you and Mr. Bowman, since you returned to Washington, prepared a report in writing under the instruction which you received from this committee?—A. Yes, sir.

Q. Under the resolution appointing you a copy of that report was to be furnished to this committee and one to the Attorney-General?—A. Yes, sir.

Q. State whether you have that report prepared for the committee and ready to submit.—A. Yes, sir; here it is [producing it].

Q. Have you carefully examined the matters embraced in this report and prepared it in connection with Mr. Bowman?—A. Mr. Bowman and myself have been together all the time making up this report.

Q. State whether all the facts set forth in that report are true, so far

as you have been able to obtain information in regard to them.—A. They are, sir.

Q. In what way are they supported?—A. By the written statements of persons named in the report.

Q. How did you obtain those statements from those persons?—A. We went to them and explained what we wanted, and asked them if they were willing to give voluntary statements of the facts. They agreed to do so and did so. Those statements were reduced to writing as we went along, and we insisted that the parties should read their statements over carefully, and in the majority of cases, after they had read them, we, one or the other of us, read the statements to them ourselves and asked them if they were true and if they had been voluntarily made, and they answered yes, I believe, without exception.

Q. Please state what course you pursued with reference to the late marshal, Mr. Wheeler.—A. After having gotten up our testimony and returned to Springfield, we notified ex-Marshal Wheeler that we would hear a statement from him, if he wished to make it, but that of course he could make a statement or not, as he pleased. He said he would like to make a statement, and we took the different accounts and showed them to Marshal Wheeler, indicating to him where we thought the irregularities existed, and asked him in every case to explain them, and his explanation appears, of course, in his written statement.

By Mr. STEWART :

Q. Did he make a statement in writing?—A. Yes, sir; we have his statement in writing.

Q. You have not embodied that statement fully in your report?—A. No, sir. We have referred to it as an exhibit.

By the CHAIRMAN :

Q. Did you also examine Mr. Reece, his chief deputy?—A. Yes, sir; in the same way.

Q. Is the package which you have in your hand now made up of the exhibits referred to in your report?—A. Yes, sir. We have two statements here from ex-Marshal Wheeler which he made at the same time.

Q. Does ex-Marshal Wheeler in his statement deny the facts set forth by you in your report?—A. He does not deny them. In some cases he seems not to know anything about them; he does not recollect them; but I think that in no case does he deny the facts.

Q. In your report you have given only a synopsis of his statement?—A. That is all, but we refer to it.

The CHAIRMAN. Then I think that in justice to Mr. Wheeler and Mr. Reece, their statements had better be printed in our record.

Q. Please state briefly now the matter in controversy between ex-Marshal Wheeler and his deputy, Mr. Reece.—A. Mr. Wheeler stated that he had in his office a principal clerk; that he relied chiefly upon that clerk to discharge the duties of his office; that he himself examined all the accounts that were presented to the court for allowance previous to their being so presented, but that he examined them more to find out whether the number of miles was rightly stated than for anything else. To illustrate: Cairo being 220 miles off, he would look at an account for mileage from Cairo, to see whether the distance was correctly charged, or whether more miles were charged, and if he found the distance correctly stated, he thought it was all right. In a number of cases it appeared from the writs that Mr. Wheeler had done the service himself, and had made the travel; but Mr. Wheeler acknowledged that he had never made the travel on those writs; that he never had made

the arrests at the places designated, and that if the parties were arrested by him, it was in the hall of the court-house at Springfield. He said that Mr. Reece made up the accounts, and he laid the irregularities in those accounts upon Mr. Reece. Mr. Reece, in his statement, says that he never made up any accounts unless the deputy making the arrest furnished him a tab, as he calls it, containing the information from which he made up the account, and in case of service by Mr. Wheeler himself, that information, he said, was furnished to him by Marshal Wheeler and from the information so furnished he made up the accounts.

By Mr. STEWART:

Q. All that appears in the statement, I suppose?—A. Yes, sir.

The CHAIRMAN. As I have suggested, we will receive the statements of ex-Marshal Wheeler and Mr. Reece, and print them in our record. In addition, I have received through Senator Cullom, of Illinois, from Mr. Wheeler, the affidavits of Samuel T. Dresser, B. B. Longenecker, E. J. Krampff, John C. Bell, and W. S. Larison. These parties were formerly deputies of the marshal, and the substance of each of the affidavits is that Marshal Wheeler gave instructions to his clerk to make no charges except for actual services, and not to allow any constructive mileage or fictitious or illegal charges to be made. That is the substance of the instructions which these men say were given by Marshal Wheeler to Mr. Reece. Receiving those, and thinking it due to Mr. Wheeler that they should be put in as exhibits in the case, I telegraphed Mr. Reece of the fact, and he sent me a telegram in reply which also, I think, ought to go into the record.

Mr. STEWART. Is that sworn to?

The CHAIRMAN. It is not.

Mr. STEWART. Then it goes in for what it is worth. It is not evidence upon which the committee could act, because not verified by them.

The CHAIRMAN. It is not, but I presume it is the statement that Mr. Reece would make if he were under oath. The telegram is as follows:

SPRINGFIELD, ILL., 20. (Received at Washington, D. C., 21st.)

Hon. W. M. SPRINGER,

National Hotel:

Such instructions were given, but the marshal and deputies always reported the service and travel on writs served by them. They alone know whether there was actual travel or not. I always made the accounts from their reports and from data given me by them, and in their presence and under their directions. If illegal fees are charged they are responsible. The accounts were never made up for presentation until after the marshal had carefully examined them, and were always presented for approval by him in person. I can substantiate this by affidavits of others. Shall I do so? I state emphatically I am not responsible for the irregularities and ask for fairness at your hands, which I know will be given me.

J. M. REECE.

The WITNESS. I would state that both Mr. Wheeler and Mr. Reece seemed to be very anxious to appear in person before this committee, and said they were coming, and for that reason we supposed they would both be here as they said they would, and we never formed any opinion in regard to which was right or which was wrong. Their statements were, of course, in direct contradiction to each other.

The CHAIRMAN. I will state further that I telegraphed to Mr. Wheeler that the committee would hear him if he desired to come, but I presume he sent these affidavits instead of appearing in person.

By the CHAIRMAN :

Q. Were any of the irregularities discovered by you, such as have no foundation whatever in law?—A. Well, as I said before, there were cases of charges made for mileage where travel was not performed at all.

Q. State what you ascertained in regard to charges for attendance before the commissioners in the city of Springfield?—A. I think that out of the 843 cases that I have mentioned, there were not to exceed 20 before commissioners outside of Springfield, and they were at Cairo. I think twenty would cover the number in the whole Southern district.

Q. During those four years the parties concerned were brought to Springfield from different parts of the State for preliminary examination in all those cases, except about twenty?—A. I do not think the exceptions would exceed twenty.

Q. Were there commissioners in the Southern part of the State?—A. Yes, sir. Mr. Bowman has a book which shows the number. I do not recollect the number, but there are quite a good many.

Q. What was the custom in the marshal's office as to charging for attendance before the commissioners at Springfield?—A. In a large majority of the cases two guards were charged for—that is, the deputy and a guard.

Q. What is the fact in regard to the attendance of Louis Vetter?—A. Louis Vetter, as would appear from Marshal Wheeler's criminal docket, attended as a guard 312 times in the four years before commissioners.

Q. Who is Vetter?—A. He was the janitor of the building, and had been for twenty-five years. For the last four years he has been receiving a salary of \$50 a month, paid by the Government.

Q. Did you take his statement?—A. We took his statement.

Q. What does he say?—A. He says he does not think that he attended in that period of four years to exceed twenty times, certainly not one hundred; and that he never received any pay for it.

By Mr. STEWART :

Q. Have you got his affidavit?—A. Yes, sir; we have got Vetter's affidavit, and Marshal Wheeler's also, on that point. [The witness here handed ex-Marshal Wheeler's statement to Mr. Stewart.]

Mr. STEWART (after looking over the paper). Mr. Chairman, it does not seem to me that it is necessary to take up any time in investigating this case. We have here the statement of the examiners, and here is an admission by this marshal that pretty much everything that is charged against him is true. He says that he did not know much about the business, and then he goes on to say :

I now see that my administration has been exceedingly loose and imperfect, and that false, fraudulent, and fictitious charges have crept into my accounts. I wish to swear positively that this was entirely unintentional on my part and that I have endeavored to prevent any charge being made in my accounts except those which were lawful and just. I wish to say that I am perfectly willing to refund all moneys that I have collected from the United States on account of these false and fictitious charges which my attention has been called to since this investigation commenced. I agreed with Messrs. Reece, Davis, and McCord, three of my deputies, when I took charge of the office, that I was to first receive my maximum compensation before any allowance was to be made to them. I will, however, add that if I had it to do over again I would not make any such arrangement, for I can now readily see what an incentive this was to cause my deputies to manufacture fees and swell their accounts against the United States as much as possible, for the larger their accounts were made the larger compensation they received. * * * I admit that I have not given the necessary attention to the duties of my office, and that I have relied entirely too much on others and have not been sufficiently careful in the examination of my accounts and watching the details of my office.

Now, this case is all on paper. This gentleman, Mr. Wheeler, admits the substance of everything that these other gentlemen say about the case, and I do not see that it is worth while to spend any time upon it.

The CHAIRMAN. I have not seen that statement of Marshal Wheeler.

Mr. STEWART. He does not deny what these affidavits allege. He says he does not remember serving a subpoena on so and so, but that he knows he did not travel 35 miles to do it, and that if he served the subpoena at all he did it at Springfield; so that he does not, in fact, make any issue with the parties who make these charges, and therefore the case is substantially admitted all round.

The CHAIRMAN. Except as to whether he or Mr. Reece, his deputy, is responsible?

Mr. STEWART. The legal responsibility is upon the marshal, of course. It is no excuse for a public officer to say that he did not know what his deputy was doing. You could not make the case worse if you talked about it for a week.

The CHAIRMAN. Then there is no necessity for our continuing the investigation, if the case is complete already.

Mr. STEWART. Why, of course, they have got a complete case against him. He says, in substance, "I have made false and fictitious charges, but I did not intend to."

WASHINGTON, D. C., *June 26, 1884.*

JOEL W. BOWMAN recalled and further examined.

By the CHAIRMAN:

Question. You have already appeared as a witness before this committee?—Answer. Yes, sir.

Q. You have heard the testimony of Mr. Winston just given?—A. Yes, sir.

Q. You made, with him, the investigation in Illinois, in regard to which he has testified here?—A. Yes, sir.

Q. State whether the report of that examination produced here by him is one which was made by you and him jointly, and whether the matters therein stated are true?—A. Yes, sir; I wrote the report in conjunction with Mr. Winston. It embodies our ideas of the evidence that we obtained.

Q. And a correct synopsis of the exhibits?—A. Yes, sir; we believe it to be absolutely correct.

Q. Did Mr. Wheeler or Mr. Reece deny the truth of any of the statements set forth in that report?—A. No, sir. We sent for Mr. Wheeler after we had made a trip through a portion of the district. Mr. Wheeler had previously said to me that he desired to make an explanation of any irregularities that might be found in his accounts, and when we returned with these affidavits, he came up to our room and made two statements. One of those statements was in reference to particular services alleged to have been performed by himself. In that affidavit Mr. Wheeler admitted to us that he did not know whether he had performed the services or not, all of them, but, that even if he had performed any portion of the service, the travel and the expenses charged against the United States for endeavoring to arrest, and for transportation of prisoners and guards, must be incorrect, because if he had made the arrests at all he made them in the city of Springfield.

Q. Who were the parties arrested in those cases?—A. James M.

Garvin, David Calvert, Samuel Gates, Henry Winters, and William Baldwin. I wish to say that ex-Marshal Wheeler states very positively that he never intended to make any charge in his accounts except for services actually and necessarily performed. He appeared perfectly surprised when we called his attention to the accounts wherein his name appeared, and promptly admitted that the charges were irregular—that there were services charged for there that he had not performed. After taking the first statement, we then called upon General J. M. Reece, who was the former chief deputy of the late marshal, and asked him if he desired to make an explanation. He said he did. We then showed him several of these accounts, and asked him whose handwriting they were in. At first he was not clear as to the handwriting; he said he did not know. I suggested to him that in my opinion it was his handwriting, and he then admitted that it was. Now, in the majority of all these cases where there were fictitious or fraudulent charges, they were in the handwriting of Mr. Reece. He claims that the information upon which he made those accounts was furnished by Marshal Wheeler. Marshal Wheeler denies that emphatically, and states that he never instructed Mr. Reece, or any other man, to insert in his account any charge except for services actually and necessarily performed. The issue on that point is between those two gentlemen. One man is alleged to have performed the service, and the other appears to have rendered the accounts—that is, to have written out the accounts, for, of course, the marshal, in fact, rendered them.

Q. Then the facts were substantially admitted by all the parties?—

A. There was no controversy, so far as the making of the charges was concerned. I did not understand that there was any. I understood that they were admitted. Mr. Wheeler's affidavit admits the making of the charges, and admits that they are irregular, but he goes on to say that he is not responsible for their being made. Mr. Reece, on the other hand, says that Mr. Wheeler is responsible.

Q. Who would receive the benefits of the overcharges?—A. They would all receive it.

Q. In what way?—A. In explanation of that, let me say that the law allows the marshal a maximum compensation of \$6,000 a year, and each deputy marshal a maximum compensation of \$3,000 a year. When Mr. Wheeler took charge of that office there was an arrangement entered into by him with three of his deputies, Mr. Reece, Mr. Davis, and Mr. McCord, by which it was understood that the marshal was first to receive his maximum compensation of \$6,000 a year, and that then, if the fees of the office would justify it, the other three were each to receive the maximum compensation of \$3,000. But the marshal was first to have his \$6,000, as I understood the arrangement. Therefore it was just as much to the advantage of the deputy marshals to swell their accounts so that they could reach their \$3,000 a year each, as it was to the advantage to the marshal; in fact it was more for their interest than it was for the marshal's, because he had a sure thing.

Q. There were three deputies, you say, with whom that arrangement was made?—A. Yes, sir; Davis, McCord, and Reece.

Q. That would require net earnings of at least \$15,000; \$9,000 for the three deputies and \$6,000 for the marshal?—A. Yes, sir; \$15,000 altogether. Then there were miscellaneous expenses besides, such as stationery, fuel, &c.

Q. And the other deputies had to have their compensation?—A. Yes, sir; but their work went to make up this maximum. For instance, if the marshal sent out a special deputy and he could get that man to per-

form service for one-third of the net fees, then the marshal would get two-thirds; but if the deputy required two-thirds, then the marshal would get only one-third. The marshal made the best arrangement he could with the special deputies, so as to make as much fees as he could for the office.

Q. What do you say as to the general management of the office during Marshal Wheeler's term?—A. It was exceedingly loose and careless. It was almost totally void of system.

Q. Who was the responsible head of the office at that time?—A. Well, I must admit that I think Mr. Wheeler was very negligent. He did not give that attention to his office that he should have given it. That is quite evident to my mind.

Q. He so states, does he not?—A. I think he admits that in his affidavit.

Q. Were you able to determine the question at issue between Mr. Wheeler and Mr. Reece, as to whether these disputed items were entered in pursuance of the marshal's directions or not?—A. Mr. Chairman, that would be simply a matter of opinion with me, and I would not like to express my opinion.

Q. There were, I believe, some cases where persons were arrested in the city of Springfield by Marshal Wheeler, and the fee-bill was rendered as if the parties had been arrested in remote portions of the State.—A. Well, I can say that there was one case of that kind, certainly, and the accounts show several; but whether Marshal Wheeler actually arrested those several parties or not I do not know. He did arrest one of them. That man was arrested in the hall of the court-house, and the account was made out as if he had been arrested 197 miles off.

Q. What fees were charged in that case?—A. That was the case of *The United States vs. James M. Garvin*. The account as rendered amounts to \$55.72, and the amount that is shown to be lawful as a charge in that case is \$2.50.

Q. What were the facts about that case?—A. The facts, as we obtained them from the affidavits, and as I believe them to be, are that Mr. Garvin was subpoenaed as a witness before the grand jury, I believe, at Springfield. He went to Springfield in compliance with the subpoena, and was there one or two or perhaps three days. While he was in Springfield a bench warrant issued for him for a violation of the pension laws. He was indicted, and the bench warrant was issued and placed in the hands of Marshal Wheeler for service. Mr. Garvin was standing in the hall of the court-house, within a few feet of the marshal's office, when Marshal Wheeler came up and asked him if he was in the party (there were several persons standing there), and he said he was. The marshal asked him to step into a room; he did so, and there Marshal Wheeler informed him that he was under arrest. Garvin then went out and asked one or two of these gentlemen to go on his bond, which they declined to do. Marshal Wheeler then told him that unless he could furnish bonds he would have to go to jail. He told the marshal that he could not give a bond there; that his friends were down where he lived, at Macedonia, and that he did not want to go to jail; and he wanted to know what arrangement he could make to keep out of jail. The marshal told him that if he would employ some man to guard him until his friends should arrive, he would let him stay out of jail; so the marshal selected a man and Garvin paid him \$2 or \$2.50 a day until his brother or brother-in-law came on and he was bound over for trial.

Q. How much fees were charged in that case?—A. Fifty-five dollars

and seventy-two cents was the charge against the United States, and the marshal was entitled to \$2.50 under the law.

By Mr. MILLIKEN:

Q. Was that \$2.50 all there was that was legal in the charges that made up the account?—A. Yes, sir; as appeared by the account. For instance, the marshal was entitled to charge \$2 for the service, and 50 cents for discharging the prisoner. The mileage, the expenses endeavoring to arrest, transportation, &c., were irregular and unfounded charges.

Q. All beyond the \$2.50 was illegal?—A. Yes, sir.

By the CHAIRMAN:

Q. There were no expenses in endeavoring to arrest, and there was no travel?—A. No, sir. The marshal himself says that if he arrested this man at all he arrested him in Springfield; yet he charges for travel 197 miles. Of course, if he did not make the travel, he could not have transported the prisoner.

Q. In whose handwriting is that account?—A. In the writing of Mr. Reece, the chief deputy.

Q. And it appears upon the books of the marshal's office, and has been approved by the court and paid by the United States?—A. I presume so. It is on the books of the Treasury Department.

Q. And the account has been settled?—A. I do not know that. I know that Marshal Wheeler's accounts were presented for payment, but whether the Department has settled with him or not I do not know.

Q. When did he go out of office?—A. I think he went out of office about the latter part of last December.

Mr. WINSTON. He went out on the 30th of November last.

By Mr. MILLIKEN:

Q. When did you make this investigation?—A. I made it under the direction contained in the resolution of this committee, dated April 22, 1884.

By the CHAIRMAN:

Q. Is there any other statement that you desire to make on this subject?—A. No, sir; I do not care to make any statement.

Following are the report of Examiner Bowman and Mr. Winston, and the statements of ex-Marshal Wheeler and his chief deputy, Mr. Reece:

REPORT OF EXAMINER BOWMAN AND MR. JAMES A. WINSTON IN RELATION TO EXPENDITURES OF UNITED STATES COURTS IN ILLINOIS.

To the Committee on Expenditures, Department of Justice, House of Representatives:

GENTLEMEN: In conformity with a resolution of the Committee on Expenditures in the Department of Justice, dated April 22, 1884, in which the Attorney-General was requested to "authorize Mr. Joel W. Bowman, one of the examiners of the Department of Justice, to make a special examination into the expenditures of the United States Courts in the State of Illinois, and that he be directed to report the result of the examinations, both to the Department of Justice and to this committee; and that he be authorized to employ, with the approval of the chairman of this committee, a competent person, a resident of that State, to assist him in making such examinations; and that all expenses thereof be paid as provided in resolution of the House of Representatives, passed March 17, 1884," Examiner Bowman was directed by the Attorney-General to proceed to Illinois to make the examinations required by the committee. He was there joined by Mr. James A. Winston, who had been selected by the chairman of the committee to act with him, and in compliance with that portion of the resolution calling for a report both to the Attorney-General and the committee, the following is respectfully submitted:

It will be observed that the resolution above referred to required an investigation into the court expenses in *both* the districts in the State of Illinois; but our examina-

iotn did not extend beyond the *southern* district of Illinois, as we were summoned back to Washington by the chairman of the committee before we could extend it into the northern district, as contemplated in the resolution.

Immediately upon commencing the examination at Springfield, Ill., we called upon Hon. Samuel H. Treat, judge of the United States district court for the southern district of Illinois, and obtained from him an order of court permitting us to take from the United States district and circuit clerks' offices such books, papers, accounts, &c., as it would be necessary for us to refer to in the discharge of our official duties.

We obtained from the files of the United States district clerk's office at Springfield the file copies of the accounts rendered against the United States by Jacob Wheeler, esq., late United States marshal for the southern district of Illinois, on account of alleged services performed by him and his several deputies, covering a period of about four years. In addition, we obtained access to the books and dockets used by late Marshal Wheeler, and after a careful examination and comparison of said accounts with the books and dockets it became very apparent that the marshal's office during Marshal Wheeler's incumbency had been sadly deficient in system, and it was also plainly demonstrated that the duties of the office had been performed in a very loose and careless manner, and, presumably, with a view to increasing the costs against the United States to their utmost limit, so as to obtain the maximum compensation allowed by law to the marshal and his regular deputies.

We found that the accounts rendered by Marshal Wheeler not only contained many irregularities, but they also contained fictitious and fraudulent charges for services never performed. The accounts examined by us contained charges against the United States for mileage never traveled; transportation of prisoners when none were transported; expenses charged for endeavoring to arrest when no expenses were incurred; charges for guards when no guard was employed or used; subsistence of prisoners when none was furnished; attendance of deputies and guards at preliminary examinations before United States commissioners when the alleged deputy or guard did not so attend and when there was no necessity for their attendance, and charges for committing prisoners when they were not committed.

Exhibit No. 1 is a transcript taken from the criminal docket used by Marshal Wheeler during his administration of the marshal's office. It is shown by this exhibit that in the large majority of these cases two deputy marshals, or guards, were in attendance before the United States commissioner at the preliminary examinations of the different defendants therein referred to. It is also shown that in each of these cases Mr. Louis Vetter is charged for at the rate of \$2 per day, as having attended before the commissioner. As appears from this exhibit, Mr. Vetter is alleged to have attended before the United States commissioners three hundred and twelve days, during Marshal Wheeler's incumbency, for whose services Marshal Wheeler has charged the United States in his accounts \$624.

Exhibit No. 2 is the affidavit of Mr. Louis Vetter, the gentleman above referred to. In this affidavit Mr. Vetter swears that he is janitor of the public building at Springfield, Ill., which position he has held for nearly twenty-five years, and that he receives a stated compensation of \$50 per month from the United States for his services. That he has frequently acted as a deputy marshal before United States commissioners during the examination of prisoners, but that he has never received any compensation for such services. He swears further that during the administration of Marshal Wheeler his best recollection is that he attended at preliminary examinations about twenty times, and positively swears that he did not attend as often as one hundred times. It is therefore shown by the foregoing affidavit that Mr. Vetter's name has been used in these accounts much oftener than he actually served; that he received no part of this \$624, which it is shown by Marshal Wheeler's accounts, the United States has been charged for his services as a deputy marshal.

Exhibit No. 3 is an affidavit of late Marshal Wheeler, and refers to the charges in his accounts against the United States for alleged services by Mr. Vetter. In this Mr. Wheeler admits that he knew Mr. Vetter's services were being charged for in his accounts; that he never objected to it until within the last year; that Mr. Vetter received no compensation for this service; and that he was only allowed his regular salary of \$50 per month as janitor, and that it has been customary in that district for the past twenty years to use Mr. Vetter as a deputy before commissioners' court and not give him any compensation for such services.

On page 11, of Exhibit No. 51, late Chief Deputy Marshal J. N. Reece swears that he never inserted Mr. Vetter's name in the accounts, except when it had been reported to him by the deputy marshals that Mr. Vetter had been in attendance on the commissioners' court; that he knew Mr. Vetter was receiving a stated salary from the United States, and that the money was paid to Mr. Vetter through him every month, but that he was instructed when he went into Marshal Wheeler's office that Mr. Vetter might be used as a guard before the commissioners.

In view of the fact that a system has grown up in this district to use two deputies

or guards at preliminary examinations before United States commissioners, it is but fair to presume it was done for the purpose of increasing the fees, as we are convinced that in a very large majority of these cases it was wholly unnecessary. In the case of Mr. Vetter we have recommended the disallowance of the entire amount charged for his services as deputy marshal or guard, for the reason that the United States should not be required to pay for his services in two different capacities at the same time; but, independent of this, the service as deputy was not performed by Mr. Vetter, except in a few instances, as above stated.

Exhibit No. 4 is the affidavit of S. H. Jones, president of the State National Bank at Springfield, Ill., and one of the State Commissioners at the Joliet, Ill., penitentiary, and refers to the transportation of one Leonard Bailey, a United States prisoner, from Springfield, Ill., to the Joliet penitentiary on March 6, 1880. In the account rendered by Marshal Wheeler, for the services performed by his deputy, C. P. Davis, in transporting Bailey to the penitentiary, a charge of \$15 is made for S. H. Jones, "necessary guard," from Springfield to Joliet, a distance of 150 miles. The gentleman above referred to is the only S. H. Jones we could find in or about Springfield, and we therefore presume he is the person who is alleged to have acted as guard on this occasion. In his affidavit Mr. Jones says he has no recollection of ever having acted as guard over this prisoner; that he may have been on the same train with Deputy Marshal Davis and the prisoner, and may have gone to Joliet at the same time, but that he never acted as a guard or received one cent. That he never knew he was charged for as a guard until the account was shown to him by us; that he has no recollection of Deputy Marshal Davis ever having asked him to act as guard on any occasion; that he never really acted as a guard, don't know anything about the case; and that he never had been informed that he had been or was going to be charged for in the accounts as a guard. We expected to meet late Deputy Davis before leaving the district but failed, and hence we were unable to interrogate him with reference to the services performed by him; but the statement of Mr. Jones cannot be doubted, as he is recognized as a gentleman of high standing and reputation in the community in which he resides.

Exhibit No. 5 is an affidavit of Mr. T. J. Puckett, and refers to the service of a subpoena by him on December 31, 1880, upon which he only actually traveled about 10 miles, while the account rendered by Marshal Wheeler makes it appear that he traveled 174 miles.

Exhibit No. 6 is an affidavit of Mr. Joseph F. Marshal, and refers to the service of a subpoena by him on December 23, 1881, upon which he only actually traveled about 7 or 8 miles, while the account as rendered by Marshal Wheeler makes it appear that he traveled 167 miles. This subpoena was sent by mail from Springfield to the postmaster at McLeansborough, Ill.

Exhibit No. 7 is the affidavit of Mr. C. F. Linzie, and refers to the alleged service of a subpoena on him at Duquoin, Ill., on December 16, 1882, by Marshal Wheeler. Mr. Linzie swears that he is not positive how this subpoena was served on him, and says that it may have been served on him at Duquoin or at Springfield, or it may have been sent to him by mail. He distinctly remembers having received one subpoena by mail from Marshal Wheeler, and swears positively that Marshal Wheeler never personally served a subpoena on him at Duquoin in his life. Marshal Wheeler, in his affidavit marked Exhibit No. 52, says that he has no recollection of ever having served a subpoena on Mr. Linzie at Duquoin; that he knows he never traveled 138 miles to serve this subpoena, as his account makes it appear he did, and that if he ever served the subpoena at all he served it in Springfield. The United States has been charged in Marshal Wheeler's accounts with \$8.28 for 138 miles' travel to serve this subpoena, when the fact is Marshal Wheeler, as his own statement shows, did not travel any distance to serve it.

Exhibit No. 8 is the affidavit of Mr. Peter Saup, and refers to the service of subpoenas by him, at and near Cairo, Ill. Mr. Saup swears positively that six of the subpoenas referred to were sent to him at Cairo by mail from Springfield; and that in one case he is not positive whether the subpoena was received by him at Springfield or whether it was sent to him by mail. In the accounts rendered by Marshal Wheeler for the service of the above-mentioned subpoenas, constructive mileage to the amount of \$77.88 has been charged.

Exhibit No. 9 is the affidavit of Jacob Alyea, and refers to a charge in Marshal Wheeler's accounts for his services on March 3, 1880, for attendance before United States Commissioner Adams, in the case of *The United States vs. J. H. Thompson*. Mr. Alyea swears that he has no recollection of having performed this service, or of ever having received any money for it, and that he thinks the charge must have been made through mistake.

Exhibit No. 10 is the affidavit of W. H. Hendricks, one of the bailiffs of the United States court at Springfield. Mr. Hendricks's name also appears in the accounts rendered by Marshal Wheeler as having attended before United States commissioners at preliminary examinations, and for each day's attendance the United States has been

charged \$2. It is shown by Mr. Hendricks's affidavit that he never received any compensation for this service, but was paid \$2 per day for his services as a bailiff.

Exhibit No. 11 is the affidavit of William Derring and refers to the arrest of Michael Perrine and David Shanks at Duquoin, Ill., in October, 1883. This affidavit shows conclusively that false charges to the amount of \$23.20 have been made in the account rendered by Marshal Wheeler for the arrest of Michael Perrine. We endeavored to ascertain in whose handwriting the Michael Perrine account is made out, but were unable to do so positively. We are, however, both of opinion that this account is in the handwriting of late Marshal Wheeler, but when we called his attention to it he denied having written it. The face of this account shows that it has been systematically and carefully prepared, and evidently with a view to its passage through the hands of the accounting officers of the Treasury without question. It will be observed that the name of "William Hamilton" is used as a guard, and for which the United States is charged \$16.50. Also that the name of "John Hamilton" is used as a witness. The fact is this guard and witness is one and the same person, as is shown by the subpoena itself and the affidavit of Mr. William Derring, the special deputy who performed the service. This man William Hamilton was the detective who worked up this case of counterfeiting, and the only reason his name was changed to John Hamilton in this account was evidently for the purpose of deceiving the accounting officers of the Treasury. This charge in the account of \$9.90 for 165 miles, travel to serve this subpoena on "John Hamilton" is purely fictitious and fraudulent. The subpoena was issued for and served on *William*, not John Hamilton, and no travel was required in order to serve it, for it was served on Mr. Hamilton in the city of Springfield, Ill.

Exhibit No. 12 is the affidavit of Henry Whyte, and refers to the arrest of Anthony O'Donnell at Jerseyville, Ill., on September 7, 1883. It will be seen by the affidavit of Mr. Whyte that the charge of \$4.86 in Marshal Wheeler's account for 81 miles' travel on this warrant is irregular, for the reason that he did not travel on the warrant, and that the charge of \$2 for endeavoring to arrest and \$2.50 for committing the prisoner to jail is false.

Exhibit No. 13 is a joint affidavit of James Maulding, sheriff of Hamilton County, Illinois, and Mr. H. M. Crouch, one of his deputies, and refers to the arrest by him of David Clark near McLeansboro, Ill., on October 27, 1883. The accounts of Marshal Wheeler contain a charge of \$12.90 for 215 miles' travel by Mr. Crouch on this warrant, which is irregular, as the affidavit of Mr. Crouch shows that he only actually traveled about 18 miles on this warrant instead of 215 miles, as charged.

Exhibit No. 14 is the affidavit of Robert C. Johnson, formerly deputy United States marshal under ex-Marshal Wheeler, and refers to various fictitious and fraudulent charges in the accounts of ex-Marshal Wheeler. It is shown by this affidavit that mileage has been charged on warrants and subpoenas which had been sent by mail and upon which no travel was made; that his name has been fraudulently inserted in the accounts as a guard, and the United States required to pay for his alleged services in cases that he (Johnson) swears he knows absolutely nothing about.

Exhibit No. 15 is the affidavit of B. F. Chase, supervising examiner of pensions at Saint Louis, and corroborates the statement of late Deputy Johnson as to charges for constructive mileage, and relates to the charge of \$9.20 for one R. E. Pope as guard from 6 miles west of Kane, Ill., to Springfield, in the case of the United States vs. Orange Handling, who was arrested on April 2, 1882. The accounts of Marshal Wheeler show that the service in this case was performed by late Deputy Marshal C. P. Davis. From the affidavit of Mr. Chase it appears that this charge for guard is irregular, or at least partially so; and that even if a guard was employed after Deputy Davis got on the train with his prisoner, such employment was unnecessary.

Exhibit No. 16 is the affidavit of Patrick Kerrigan, formerly chief of police at East Saint Louis, Ill. It is shown by this affidavit that Mr. Kerrigan has been charged for in Marshal Wheeler's accounts in cases where he (Kerrigan) performed no service whatever; that he has been charged for as a deputy marshal when he did not so act; that he has been charged for in the accounts as a guard when he performed no service and was never asked to act as guard; that writs have been sent to him by mail and mileage charged thereon; that fictitious charges for guards, subsistence of prisoners while in custody, and expenses while endeavoring to arrest, have been inserted in accounts where he did not perform the service; that mileage has been charged for by Marshal Wheeler for service of subpoenas on him (Kerrigan) when in fact Marshal Wheeler made no travel but served the subpoenas on him at Springfield.

Exhibit No. 17 is the affidavit of M. A. Sullivan, principal of the Franklin school at East Saint Louis, Ill. It is shown by this affidavit that Mr. Sullivan was arrested at East Saint Louis, by L. E. Wheeler, a son of late Marshal Wheeler, on March 27, 1883, for a violation of the internal-revenue laws. Mr. Sullivan swears that he was not transported or guarded from East Saint Louis to Springfield, but that he went there voluntarily and alone. He states he was arrested by Deputy Marshal L. E. Wheeler, who met him on the street and requested him to report to the United

States attorney at Springfield, which he promised to do and which he did two or three days afterwards; that Deputy Wheeler did not transport him to Springfield and that he was not guarded by any one between East Saint Louis and Springfield. Mr. Sullivan was a member of the Illinois legislature at the time, and had been in Springfield discharging the duties of his position until a day or two previous to his arrest, when he had gone down to East Saint Louis, his home, to spend the Sabbath with his family. This affidavit also shows that Mr. Sullivan appeared before the commissioner only on one day instead of three days, as the account shows.

The account rendered against the United States by Marshal Wheeler for the arrest of Mr. Sullivan shows a charge of \$9.60 for transportation of prisoner from place of arrest to Springfield, 96 miles, and \$9.60 for Patrick Kerrigan, necessary guard, 96 miles, and attendance of deputies at preliminary examinations on March 28 and 29 and April 5, 1883, at \$2 per day.

Exhibit No. 18 is an affidavit of Patrick Kerrigan, the person charged for as having guarded Mr. Sullivan from East Saint Louis to Springfield, in which Mr. Kerrigan swears that he did not act as guard in this case, and that he never authorized any one to use his name in the account as such.

Exhibit No. 19 is the affidavit of late Deputy Marshal Loren E. Wheeler, who arrested Mr. Sullivan, in which he admits that he did not transport him from East Saint Louis to Springfield, as the account makes it appear he did. He says that after arresting Mr. Sullivan he left him and went to the railroad depot, where he got in conversation with a stranger, dressed as a laborer, who told him (Wheeler) that he was trying to get to Chicago; that he asked this man if he knew Mr. Sullivan, and was informed that he did, and he then told this stranger that if he would act as guard over Mr. Sullivan he would pay his fare from East Saint Louis to Springfield; that the stranger promised to do so, and he purchased a ticket and gave it to him. Mr. Wheeler further swears that this man was a total stranger to him; that he had never seen him before, but thinks he has seen him once since in Springfield; and that he knows Mr. Sullivan came to Springfield, but he does not know whether this man accompanied him or not. He admits that the person charged in the account as guard, Patrick Kerrigan, was not a guard, and did not accompany either him or the prisoner from East Saint Louis to Springfield.

Deputy Wheeler's statement with reference to this case is, to say the least, very inconsistent. It is not reasonable to suppose, if he really thought a guard was necessary, that he would have paroled Mr. Sullivan after having arrested him; nor is it quite reasonable to believe that if he did have any fears he would have relied upon the mere statement of an unknown man, whom he had never seen before. It is also strange that this stranger's name does not appear in the account, but that the name of Patrick Kerrigan, who did in a measure assist Deputy Wheeler, but only by pointing out Mr. Sullivan, should be inserted in the account as a guard. We are satisfied from conversations with all the different persons connected with this case that Mr. Sullivan was not guarded at all on this occasion, and that Mr. Wheeler's statement, so far as this case is concerned, is incorrect.

Exhibit No. 20 is the affidavit of James E. Hill, and refers to the arrest of Lafayette Hamilton and Charles N. Cullins at Macedonia, Ill., on March 7, 1883. It is shown by this affidavit that Deputy Hill arrested Lafayette Hamilton at Macedonia, and went out to look for the other defendant, Charles N. Cullins, whom he did not find. He then took Lafayette Hamilton to McLeansborough, when he placed him in the custody of J. H. Jacobs to guard him while he (Hill) went to bed; that he met one W. B. Creemens whom he told that if he would get the other defendant, Charles N. Cullins, and bring him to McLeansborough, he (Hill) would take him (Creemens) to Springfield as a deputy and that he should have the fees in the Cullins case, or he would give him \$10 for his trouble. When he got up preparatory to taking the train he found Charles N. Cullins had come in, and was told that Mr. Creemens had sent him word that he did not care to go to Springfield and desired him to take W. D. Cullins, a brother of the prisoner, in his stead, which he consented to do. He says further that he is not responsible for the charges made against the United States in the Charles N. Cullins case, and that he received no credit on account of it and that he had nothing to do with transporting or guarding Charles N. Cullins on this trip.

Exhibit No. 21 is the affidavit of James H. Jacobs, who is charged for in the account as having guarded Lafayette Hamilton from Macedonia to Springfield, Ill., a distance of 206 miles, at 10 cents per mile, \$20.60. Mr. Jacobs swears that he only guarded the prisoner while Deputy Hill was asleep at the hotel, and from the hotel to the depot; that Deputy Hill had no guard with him when he left McLeansborough, and that if he had any guard over Lafayette Hamilton, he must have secured one after leaving McLeansborough, and that Deputy Hill told him when they parted at the depot that he did not need a guard.

Exhibit No. 22 is the affidavit of Lafayette Hamilton, who swears that he was not guarded by any one except Deputy Hill from McLeansborough to Springfield; at least, if he was he did not know it.

Exhibit No. 23 is the affidavit of Charles N. Cullins, who swears that J. H. Jacobs only guarded Lafayette Hamilton at the hotel while Deputy Hill was asleep, and from the hotel to the depot at McLeansborough; and that if any one else besides Deputy Hill guarded Lafayette Hamilton from McLeansborough to Springfield, he did not know it.

Exhibit No. 24 is the affidavit of Perry Lee, one of the witnesses against Lafayette Hamilton. He swears that J. H. Jacobs did not guard Lafayette Hamilton from McLeansborough to Springfield, and that if any one except Deputy Hill guarded him he did not know it.

Exhibit No. 25 is the affidavit of Harvey C. Vise, also a witness against Lafayette Hamilton. He swears he did not see anybody but J. H. Jacobs guarding Lafayette Hamilton, and that said Jacobs did not accompany them from McLeansborough to Springfield.

Exhibit No. 26 is the affidavit of Wm. D. Cullins, a brother of Charles N. Cullins, one of the prisoners, and the person who acted in the capacity of assistant deputy marshal. He swears that he does not know of any body acting as guard over Lafayette Hamilton between McLeansborough and Springfield except Deputy Hill.

Exhibit No. 27 is the affidavit of ex-Marshal Wheeler, referring to this case. Mr. Wheeler says that he recalled the voucher in which this account appears from the First Auditor's Office in order to make certain corrections, and that he at that time changed the account so as to allow for the guard a distance of only 20 miles instead of 206 miles. He claims also to have changed the amount from \$20.60 to \$2, and that this change was agreed upon between Deputy Hill and himself after consultation, and that he is surprised to learn that the account has been changed back from \$2 to \$20.60, and that this last change was made without his knowledge, and that had he known it was going to be changed back to \$20.60 he would not have permitted it. The account in a measure bears Mr. Wheeler out in his statement, as it still plainly shows the erasures where the change was made. It is but just to Deputy Hill to say that he admits that J. H. Jacobs, the person charged in the account as guard, did not act as guard from McLeansborough to Springfield, but he claims that he employed railroad employes to assist him with Hamilton on the different trains upon which he traveled between McLeansborough and Springfield, and, in order to save trouble, used J. H. Jacob's name in the account for the entire trip; and yet it seems to us if he really did employ railroad employes, and they were necessary, the others who accompanied him on the trip would have known it, and more especially is this true in the case of W. D. Cullins, who Mr. Hill himself deputized to assist him. Certainly, Deputy Hill considered W. D. Cullins a reliable person or he would not have placed him in charge of Charles N. Cullins, his brother, and if Mr. Hill did consider him reliable, then he must have known that he did not need any one else as guard, for he and Mr. Cullins were certainly able to look after Hamilton. It is shown by the affidavits above referred to that Charles N. Cullins did not need watching, for he came voluntarily and alone from Macedonia to McLeansboro, a distance of about 10 miles, to surrender to Deputy Hill.

Exhibit No. 28 is the affidavit of B. W. Creemens, the person who it is alleged by the account arrested and transported Charles N. Cullins to Springfield. It is shown by this affidavit that he did not accompany Charles N. Cullins on this trip; that Cullins went voluntarily from Macedonia to McLeansboro and there surrendered to Deputy Hill, and that he (Creemens) arranged with the prisoner to have Deputy Hill take his, Cullins', brother along to Springfield, as a deputy or guard. The affidavit of William D. Cullins, as well as that of Deputy Hill, hereinbefore referred to as Exhibits 20 and 26, shows that this arrangement was entered into and that Deputy Hill placed this prisoner, Charles N. Cullins, in the custody of his own brother, William D. Cullins. The affidavits of Deputy Hill and late Marshal Wheeler, marked Exhibits 20 and 27, show that the appointment of the deputy in the Cullins case is antedated four days; that is to say, the writ shows the appointment of W. B. Creemens on March 2, 1883, when the fact is that indorsement was made on the writ after the prisoners reached Springfield, which was on March 8, 1883.

The account rendered against the United States for services in the Charles N. Cullins case amounts to \$78.30, of which the sum of \$28.60 is purely fictitious and fraudulent, as is shown by the affidavits of Deputy Hill, late Marshal Wheeler, Charles N. Cullins, Lafayette Hamilton, R. C. Johnson, and W. D. Cullins, as well as others. The name of R. C. Johnson is charged for in this account as a guard a distance of 206 miles at 10 cents per mile, \$20.60. Deputy Hill swears that if Mr. Johnson was along he did not see him. Charles N. Cullins, W. D. Cullins, and Lafayette Hamilton swear he was not a guard, and Mr. R. C. Johnson himself swears that he was not a guard and knew nothing about the case.

Exhibits Nos. 29, 30, 31, 32, 33, 34, 35, and 36 are the affidavits of Rolandus R. Barnett, B. W. Creemens, H. S. Humphreys, Bernhard Senn, William Steffin, Chris. Baumann, H. Hartleib, and Abraham Fricker, and refer to fictitious and fraudulent charges

in the accounts rendered by late Marshal Wheeler for services performed by late Deputy Marshal G. C. McCord.

Exhibit No. 37 is the affidavit of late Deputy Marshal G. C. McCord, in which he admits many irregularities and fictitious charges in the accounts. This man McCord is reported to be a very unreliable, immoral, and intemperate person, and, we were informed, was removed on account of his intemperance. We came in contact with a dozen or more persons during our travels in the district who informed us that Mr. McCord had borrowed money from them—various amounts—which they loaned him in consequence of his position, and which he had failed to pay, and in addition failed to settle his board bill before leaving Springfield.

Exhibit No. 38 is the affidavit of William M. Crisel, formerly a deputy under ex-Marshal Wheeler, and refers to the services of subpoenas which had been sent to him by mail to McLeansborough, Ill. In each of these cases where the subpoena was sent to Deputy Crisel by mail the accounts of Marshal Wheeler show that constructive mileage to the amount of \$11.82 has been falsely charged against the United States. This affidavit also shows a false charge of \$19.70 for J. S. Patterson as guard, in the case of A. J. Mackey, arrested by late Deputy Marshal G. C. McCord on May 31, 1882. Mr. Crisel swears that he accompanied Deputy McCord and this prisoner from McLeansborough to Springfield, and that if any such person as J. S. Patterson had acted as guard he would have known it.

Exhibit No. 39 is an affidavit of late Deputy Marshal Crisel, and refers to the arrest of Charles Walker on January 28, 1882. It is shown by this affidavit that Mr. Crisel arrested this defendant and transported him to Springfield. He swears that the warrant was sent to him by mail to McLeansborough, and that he only actually traveled between 15 and 16 miles to serve it, while the account of ex-Marshal Wheeler makes it appear that he traveled 182 miles, and for which the United States is charged \$10.82, when it should only have been charged 96 cents. The account of Marshal Wheeler also shows a charge of \$18.20 for R. C. Johnson as a guard in this case, from the place of arrest to Springfield.

It will be seen by this affidavit that Mr. Crisel swears he was not accompanied on this trip, or any part thereof, by R. C. Johnson, and that nobody but himself guarded this prisoner from the time he arrested him until he placed him in jail at Springfield. By reference to Exhibit No. 14 it will be seen that Mr. R. C. Johnson positively swears that he did not guard this prisoner any distance. This charge of \$18.20 is therefore purely fictitious. This account also shows a charge of \$4 for expenses of late Deputy Crisel on January 27 and 28, 1882, while endeavoring to arrest. The affidavit of Mr. Crisel, however, shows that the only expense he was at in endeavoring to arrest this prisoner was his railroad fare from McLeansborough to Belle Rive, which was between 40 and 60 cents. It will be seen, therefore, that of this charge of \$4 the sum of at least \$3.40 is fictitious and fraudulent, and of the entire account, amounting to \$78.92, the sum of \$31.46 is fraudulent.

Exhibit No. 40 is an affidavit of late Deputy Marshal Crisel, and refers to the arrest of James Carlin, on January 31, 1882. It is shown by this affidavit that Deputy Crisel arrested James Carlin near Williamsville, Ill., a distance of not to exceed 16 miles from Springfield, and that he transported the prisoner without any guard from the point at which he arrested him to Springfield, where he was placed in jail. The account as rendered by Marshal Wheeler makes it appear that the arrest was made 197 miles from Springfield, and that the prisoner was transported 197 miles by Deputy Crisel and also by a guard, one J. W. Boggs. Mr. Crisel swears positively that he does not know any such person as J. W. Boggs, and that no one guarded this prisoner but himself on this trip. The total amount of the account rendered against the United States in this case is \$80.92, of which the sum \$66.76 is fictitious.

Exhibit No. 41 is an affidavit of late Deputy William M. Crisel, and refers to the arrest of James Martin at McLeansborough, Ill., on February 9, 1882. The account as rendered against the United States shows a charge of \$19.70 for James Randal as guard, and \$4 for expenses on March 8 and 9, 1882, while endeavoring to arrest. The affidavit of Mr. Crisel shows that this charge of \$19.70 for guard is purely fraudulent, and that at least \$3.50 of the \$4 charged for expenses in endeavoring to arrest is fictitious.

Exhibits Nos. 42 and 43 are affidavits of late Deputy Marshal Crisel, and refers to the cases of David Calvert and Samuel Gates, who appear to have been arrested on January 19 and 27, 1882, respectively. From these affidavits it appears that both of the above-named persons were subpoenaed to attend as witnesses at Springfield, and that in compliance with such subpoenas they went to Springfield voluntarily, and after their arrival there they were arrested. The accounts as rendered against the United States makes it appear that both of these defendants were arrested by ex-Marshal Wheeler at McLeansborough, Ill.; that he made two different trips to arrest them, traveling 197 miles on each trip; that each prisoner was transported by ex-Marshal Wheeler 197 miles, and that a guard was employed to guard each of these prisoners 197 miles, different names being used as guards in each case, and that the

late marshal expended \$2 in endeavoring to arrest each of the above-named defendants. In the affidavit of ex-Marshal Wheeler, marked Exhibit No. 52, he swears that he does not recollect anything about the arrest of the above-named defendants, but that he does know he never did arrest them at McLeansborough, and that if he ever arrested them at all he arrested them in Springfield. The United States has been charged \$81.42 and \$80.92, respectively, for services in the David Calvert and Samuel Gates cases, making a total of \$162.34. In the David Calvert case, the utmost farthing Marshal Wheeler was entitled to was \$8.50, instead of \$81.42 as charged, and in the Samuel Gates case he was entitled to \$8 instead of \$80.92 as charged; hence of the amount \$162.34 charged against the United States, the marshal was entitled by law to \$16.50.

Exhibit No. 44 is an affidavit of late Deputy Marshal Crisel, and refers to a charge of \$20.30 for one Henry Thornton as a guard in the case of Douglas Darnell, who was arrested by late Deputy G. C. McCord on May 4, 1882. It is shown by this affidavit that Mr. Darnell came in voluntarily, a distance of 4 miles, to McLeansborough, to meet Deputy McCord, and that he was not guarded that distance, and that he (Crisel) does not believe a guard was employed after leaving McLeansborough, and that he knows a guard was not necessary. It is very evident that if it was necessary to have a guard over Douglas Darnell he would not have come in voluntarily and alone 4 miles, and if Deputy McCord had thought it necessary he would not have left the prisoner at home after arresting him.

Exhibits No. 45, 46, and 47 are affidavits of James M. Garvin, John A. Garvin, and E. H. Vice, and refer to the arrest of James M. Garvin for a violation of the United States pension laws. It is shown by these affidavits that Mr. Garvin was subpoenaed to Springfield as a witness, and after his arrival there the United States grand jury returned an indictment against him upon which a bench-warrant was issued and placed in the hands of Marshal Wheeler for service; that Marshal Wheeler did arrest Mr. Garvin in the hall of the United States court-house at Springfield, and Marshal Wheeler told him at the time, if he could not give bond or pay some one to guard him until his friends arrived to go on his bond, he would have to put him in jail, and that he (Garvin) did employ a man selected by Marshal Wheeler and paid \$2.50 a day and his board, to guard him for three or four days so as to prevent going to jail. The account rendered against the United States for services in this case shows that the arrest was made by late Marshal Wheeler, but makes it appear that Mr. Garvin was arrested at McLeansborough instead of at Springfield. In his statement, marked Exhibit 52, late Marshal Wheeler swears that he does not recollect the circumstances in this case, but that he is positive he never traveled 197 miles, as charged in the account, to arrest Mr. Garvin, and that if he ever did arrest Mr. Garvin it was in Springfield, Ill. The account against the United States for services in this case amounts to \$55.72, while all Marshal Wheeler was entitled to under the law was \$2.50.

Exhibits Nos. 48 and 49 are affidavits of R. C. Johnson and William Baldwin, and refer to the arrest of the last-named person at Jacksonville, Ill., on March 4, 1881, by Marshal Wheeler. These affidavits show that Marshal Wheeler did not arrest William Baldwin at Jacksonville, as claimed in his account against the United States, and that he did not transport Baldwin from Jacksonville to Springfield, a distance of 35 miles, and that he did not travel 35 miles to serve a subpoena on R. C. Johnson. The inclosed telegram, attached to the affidavit of R. C. Johnson, which we found among the commissioner's papers, indicates that Mr. Baldwin was arrested without a warrant by R. C. Johnson, who transported him to Springfield, and that the subpoena for Mr. Johnson, if served on him at all, was served on him at Springfield. It is, therefore, very plain why Marshal Wheeler's name was inserted in this account as having made the arrest. It was done for the purpose of fraudulently increasing the fees, for if Mr. Johnson's name had been inserted in the account as the arresting party the accounting officers of the Treasury would not have allowed him to charge \$2.10 for traveling 35 miles to serve a subpoena on himself. In this account the amount of \$6.20, at least, is fictitious.

Exhibit No. 50 is an affidavit of Deputy United States Marshal James E. Hill. In this affidavit Mr. Hill admits that it has been his practice, when going away from the railroad into the country to take a conveyance and driver, and when he made an arrest to charge the driver in his account as a guard for the distance he drove the team; that it has also been his custom to employ railroad employes, principally brakemen and newsboys on the different trains, to act as guards, and that in cases where he was required to take two or more railroads and employed guards on each train he would charge in his account only the name of one of these persons for the whole trip; that he has always construed the law to be that he was entitled to 6 cents per mile on all writs, from the place of issue to the place of service, regardless of where he got the writ—whether he actually traveled the distance or it was sent to him by mail. He claims that when a writ was sent to him by mail and he arrested a prisoner on it and transported the prisoner to Springfield, that he was then traveling on the writ and transporting the prisoner at the same time, and that he was en-

titled under the law to 6 cents per mile for traveling on the writ, and in addition 10 cents per mile for himself for transporting the prisoner. He swears positively that it was understood under Marshal Wheeler's administration that deputy marshals were entitled to travel on writs that were sent to them by mail, and claims that Marshal Wheeler knew that mileage was being charged in the accounts on writs that were sent to him by mail.

Exhibit No. 51 is the affidavit of J. N. Reese, formerly office deputy under the administration of late Marshal Wheeler, and refers generally to his connection with the office and the various transactions hereinbefore referred to. He swears positively that the information upon which the accounts hereinbefore referred to were generally made out by him upon the information furnished by the parties who performed the service; that in the several irregular accounts wherein late Marshal Wheeler's name appears as having performed the services he made up the accounts upon the information furnished to him by the marshal; that all accounts were given to Marshal Wheeler and carefully examined by him before they were presented for the approval of court, and that he is not responsible for errors, irregularities, or fraudulent charges in Marshal Wheeler's accounts; that he simply acted as a clerk and made up the accounts upon the information furnished to him by Marshal Wheeler and the different deputies, and that he simply put in the accounts what they told him, and swears positively that he never inserted Marshal Wheeler's name in any account without having first been instructed by him to do so.

Exhibit No. 52 is an affidavit of Jacob Wheeler, late United States marshal, and refers to the various cases in which his name appears in the accounts as having performed services, and also shows many of the fictitious charges made in his accounts for services not performed and expenses never incurred.

Exhibit No. 53 is an affidavit of late Marshal Wheeler, and refers generally to the management of his office, and an arrangement entered into between him and his three principal deputies when he was first appointed. In this he shows that when he took charge of the office that he was entirely unfamiliar with the duties required of him, and that he endeavored, as near as possible, to discharge the duties of the office in accordance with the law, and admits that his administration has been exceedingly loose and imperfect, and that false, fraudulent, and fictitious charges have crept into his accounts against the United States. He swears positively that all such charges were entirely unintentional on his part, and that he endeavored to prevent any charges being made in his accounts, except those which were lawful and just, and that he is willing to refund all moneys which he has collected from the United States on account of the false charges which we called to his attention. In this statement he also swears that he entered into an agreement with Deputy Marshals J. N. Reese, C. P. Davis, and George C. McCord, to the effect that he was to first receive the maximum compensation allowed him by law out of the earnings of the office, and that whatever remained was to be their compensation, and they were to be allowed the maximum compensation for deputy marshals if the earnings of the office would justify it; but that he now sees what an incentive this agreement was for those gentlemen to manufacture fees and to swell the costs against the United States as much as possible, for the larger the accounts were made the larger compensation they received. He further swears that he always instructed his deputies never to charge constructive mileage or for any service not actually performed, and admits that he has not given the necessary attention to the duties of his office, and says that he has relied entirely too much on others, and has not been sufficiently careful in the examination of his accounts and watching the details of his office.

Exhibit No. 54 is a statement of disallowances and suspensions amounting to \$2,152.22, which is based upon the exhibits hereinbefore referred to in this report.

In view of the loose and careless manner in which the marshal's office has been conducted during Marshal Wheeler's incumbency, together with the fact that both Mr. Wheeler and Mr. Reese swear positively that they did not know of these irregularities in the accounts until their attention was called to them by us, and for the further reason that they both expressed a desire to appear before the committee and make full explanations, we will refrain from expressing our opinion as to where the responsibility rests, but will leave that for the committee.

It is shown, however, by the affidavits hereinbefore referred to, as well as the court papers, that accounts have been raised and illegal charges made in the marshal's office without the knowledge of the deputies who actually performed the service, and after the writs had been returned by them to the marshals office.

In conclusion, we desire to say that every facility was afforded us by the court, as well as the officers thereof, to make our examination thorough and complete, but we do not wish to be understood as having made a complete investigation of the entire district, for we were recalled to Washington before having traversed but a small part of the southern portion of the district.

We have the honor to be, very respectfully,

JOEL W. BOWMAN.
JAMES A. WINSTON.

EXHIBIT No. 51.—*Affidavit of J. N. Reece, late chief deputy in the southern district of Illinois, and refers to the general management of the office and the manner in which he made up the accounts.*

Statement under oath, made by J. N. Reece, of Springfield, Ill., on the 11th day of June, 1884, upon examination by Joel W. Bowman, examiner, Department of Justice. Present also, James A. Winston, esq.

J. N. REECE, being duly sworn by Mr. Bowman, did testify as follows:

By Mr. BOWMAN:

Question. Do you desire to make a voluntary statement with regard to your connection with the marshal's office?—Answer. Yes, sir; I would like to make a statement showing the plan under which it was worked.

Q. How long were you chief deputy in Marshal Wheeler's office?—A. I went in there, I think, in July or August, 1880, and went out, I think, in 1883, with them—whatever time it was.

Q. Did you have the entire management of the office; that is to say, did you have the supervision of the accounts?—A. I made up the accounts under the direction of the marshal.

Q. I wish you would just define your duties, general.—A. My duties were these. I had charge of the disbursement of the funds—that is, paying out the funds on orders of the court for witnesses, jurors, prisoners, and so forth. I had, of course, to make up the weekly statements of each week. I had charge of making up the emolument account and the subpœnas I would occasionally send out yet as a rule but occasionally sent out subpœnas. The marshal would send out subpœnas and the deputies would frequently carry them out. When those subpœnas were returned I or some one in the office would enter them up on tabs—tabs like this here [pointing to a book of such, on the table before the examiner]—tabs showing the service and number of persons served. The tabs of the deputies would be made up mostly by the deputies doing the work. They in most cases would make their own returns. Deputies frequently would make up returns for deputies, but it was under their direction and dictation. These accounts as made up by deputies would be kept in a drawer, and when the time came for making up an account they were referred to Marshal Wheeler and he would go through them, examine them, and check them off. If there were no changes to be made he would mark them. They were then placed in my hands or in the hands of some one connected with the office, and copies would be made of them. Accounts would be made up and after the marshal was satisfied they were all right they would be presented to the court.

Q. In a case where you sent a writ by mail, did the marshal send a writ by mail to a point distant from Springfield, which writ was returned while he taxed a regular cost on that?—A. The writ generally would be returned to the marshal. That is, he had charge of all the mail. I never opened the mail, unless in his absence. The mileage, or miles traveled, was generally indicated on the writ when laid on my table.

Q. Was it not a very general custom to send writs by mail in this district?—A. Can't say that it was a general custom—frequently done.

Q. Was it not done very largely, especially so in the case of subpœnas?—A. Well, it was frequently done. I believe I have known a great many instances where they were sent by mail. These subpœnas were very seldom in my hands. Subpœnas and writs were generally taken charge of by the marshal, writs more generally by deputies. They would come in here and be anxious to get work—get control of the writs. I would very seldom see them till after returns were made.

Q. Any effort made by you or the marshal to prevent charging mileage on these writs sent to distant points by mail?—A. Invariably the rule to notify these parties serving these writs that they were entitled to mileage for the actual miles traveled. They would give the miles traveled.

Q. How do you account for the fact that these accounts are full of charges for mileage never traveled; how do you account for the fact that mileage is charged on many subpœnas sent by mail?—A. The only explanation I can make is that when the deputies sent in the subpœnas they must have stated what they had traveled on the subpœnas.

Q. We will take the subpœna in the Gates case—in the case of the United States *vs.* Samuel Gates, a subpœna served by W. L. Crisel, deputy. In that case he admits he only traveled 15 miles each way; how do you account for the charge in that case, made in your own handwriting?—A. That it is clearly an error, in my opinion.

Q. Can you account as to how you should make such an error as that—right there before your eyes?—A. Not unless the deputies would indicate the mileage from different points.

Q. Well, but Mr. Crisel has indicated there just exactly what he did, and right in the face of that you have added a hundred and sixty miles to the service, apparently

without any authority.—A. Well, sir, unless I had some memorandum it is clearly an error. There would be no object in taxing it up for the benefit of Mr. Crisel.

Q. Do you mean to say Mr. Crisel got the benefit of that?—A. He certainly got the benefit of those charges.

Q. How much did Mr. Crisel receive on that—have you any idea?—A. I have no idea; Mr. Wheeler adjusted the account.

Q. What arrangement did you have with Mr. Wheeler when you went into the office with regard to your pay?—A. I was to have \$2,000 as clerk, and if the earnings as deputy would justify it I was to have more.

Q. Was there any understanding that anybody else had to be paid before you got your \$2,000?—A. There was an understanding that the marshal was to have his salary. The marshal, in making up his returns, would allow himself the full amount.

Q. You mean by that his maximum compensation allowed by law?—A. Yes, sir.

Q. Then, if there was only the maximum allowed to the marshal, you received nothing?—A. Well, nothing of that kind was ever discussed. I was to have \$2,000 myself as clerk.

Q. Whether the marshal made anything or not?—A. Well, that contingency never was discussed—that point never was raised.

Q. Didn't Marshal Wheeler say to you and Mr. McCord and Mr. Davis, when he took you in the office, that he couldn't say just what he would allow you, but he was going to take \$6,000 first—was going to receive his maximum first—and after that he would divide the office fees between you three gentlemen?—A. That was the understanding, of course; he was to have his maximum. That was the understanding when I came in, of course. It was understood the marshal was to have his maximum allowed by law. He said when making up his accounts they would go forward, and frequently \$300 or \$400 would be cut out, and while it would show that he was getting his maximum under the rule, he actually would not be, because the Department would throw out, and did frequently throw out, \$300 or \$400 at a time.

Q. They were evidently for services you were not entitled to?—A. I suppose that's true.

Q. What was the custom in appointing special deputies to serve writs; were deputies frequently appointed after the service was performed by them?—A. Not as a rule. There may be some instances of that kind, but I don't remember who nor what they were.

Q. Do you remember of such an instance?—A. I have an indistinct recollection of one instance, and I think it was after the party was brought in; I couldn't say who it was or where it was; I recollect hearing the matter discussed; but as a rule it was not done.

Q. Were you ever instructed by Mr. Wheeler never to make any charge for service that was not actually and necessarily performed?—A. Well, that was the understanding always, that there was no charge to be made unless it was actually and necessarily performed.

Q. Did Mr. Wheeler ever instruct you never to make any charge for constructive mileage?—A. That was the understanding. A writ not traveled on wasn't to be entered—that is, when it was known. Of course, we had to take the statement of the deputies in making their returns when making up the tabs.

Q. It seems to me very strange you would take the statements of the man when you knew you had sent a writ by mail. Why should you allow mileage when you knew you had sent the writ by mail?—A. I have no recollection of taxing any that I knew to be sent by mail.

Q. Now, General, I wish you would look at that—United States against James M. Anderson—in which you charge mileage 115 miles—\$6.90. Did you actually perform that travel?—A. If this is the writ—I think it is on parties in Hancock County—I did travel on it once. I was in one county, came down to Bushnell, went from there to Paris, and from there to Carthage. If I recollect, Major Connolly was very anxious to have the thing closed up, and if I recollect right this was a case—

Q. You claim then you actually collected that money?—A. I claim that I traveled and made the demand and made a levy, and I think, if I am not mistaken, it was afterwards paid here. There were one or two cases—

Q. Now, General, there is a subpoena to Martha McCartney which appears to have been served by you on the 6th day of February, 1883. Did you serve that subpoena and travel 127 miles on it?—A. Well, on that subpoena—I was in the east part of the State, and traveled on the subpoena.

Q. From where?—A. Springfield. I was in the east part of the State, over about Paris.

Q. You claim you took that subpoena over with you?—A. I took that subpoena over with me to Paris.

Q. One hundred and twenty-seven miles?—A. Well, it was—let us see—I was going to Paris by way of Tuscola; don't remember now.

Q. Where did you serve the subpoena on that lady?—A. I don't remember. I didn't

get service at that time if I recollect right, but I was going to Paris to visit a military company and carried the subpoenas with me.

Q. You didn't get service at that time?—A. It was a counterfeit case. No; I don't think the service was made at that time—my recollection—it seems to me she was away from home.

Q. When you didn't get service you couldn't travel on it?—A. I don't know; that was the custom—our rule—man traveled on a writ—

Q. Whether he got service or not?—A. Yes, sir.

Q. That is even if service was had subsequently?—A. Yes, sir.

Q. Charged two mileages, then?—A. When I came in here I was told that could be done. I mean that I could charge mileage whether I got service or not, or when I subsequently got service.

Q. Where was service had on that writ?—A. I think she was notified and came in.

Q. Came in, and then service was made right here in Springfield?—A. I don't remember as to that, but I know she came in and service was actually had on her.

Q. If she came in and you got no service on her—if she was ever served at all she must have been served right here?—A. I can't say positively. I know she lives near Neoga. I was informed she wasn't at home. I couldn't say whether service was had on her there, or where it was.

Q. Have you ever sent any writs to Mr. P. Saup, at Cairo, by mail?—A. I have sent several.

Q. Have you never sent writs or subpoenas in criminal cases?—A. Don't remember.

Q. Why did you put in two hundred dollars—adding so many dollars to that account—subpoena, William Kershaw, served in February, '83?—A. I was instructed to put it in—miles traveled.

Q. By whom?—A. Mr. Saup.

Q. Did he or not travel at all on it, or was it sent to him by mail?—A. I certainly had information that it was traveled on.

Q. Who did you receive it from?—A. Either Mr. Saup or Marshal Wheeler.

Q. What does that cross mean—that runs through the accounts—that cross mark I see in several places?—A. I think a mark made by Mr. Wheeler.

Q. General, you made out that account, didn't you [exhibiting]?—A. Mr. Hill made out that account.

Q. Well, that's an account against the United States for service by Mr. Hill in March, 1883, for the arrest of one Lafayette Hamilton. You recollect, General, that Mr. Wheeler recalled that account to make corrections, and charged twenty miles in there for J. H. Jacobs as a guard?—A. He did make corrections on one of these accounts. I think he reduced the account, if I recollect right.

Q. Why was that raised to \$20.60 from \$2, which it was originally?—A. I don't know.

Q. That's your handwriting?—A. It is all in my handwriting with the exception of the change. I did not charge the amount. If I recollect right—in a memorandum we had of the earnings of Mr. Hill—I think \$80 he had credit for in this case in the book as I entered it up, and he took exception to it and insisted his earnings in that case were over \$100. If there is any change it was done without my knowledge or consent. I know I made up the earnings and gave Mr. Hill credit as fixed by Mr. Wheeler after he had made the change, striking out—I don't remember the particulars about it or anything of the kind—know that was done.

Q. You know Mr. Wheeler didn't allow on that to exceed \$2 and it was afterwards increased to \$20. That was done without the knowledge and consent of Mr. Wheeler?—A. I know in a memorandum I had it was something over \$80, as I said, and—

Mr. WINSTON. It shows at the bottom.

A. Yes.

Mr. WINSTON. It appears here in your figures \$87.90 and subsequently increased.

Q. Now, General, there is the account for arresting Charles L. Cullins (?) in March, 1883. That account also made out by you?—A. No, sir; by Mr. Hill; made out at the same time the other was made out. Mr. Hill always made out the account where he made any account. I think he had a writ for both those parties, and he invariably made his own return.

Q. Do you swear positively, General, that the data on which you made out this account were furnished by Mr. Hill?—A. My recollection is that he made out the tab himself without my assistance at all, and that this is merely a copy of the original tab.

Q. Well, there is a charge in there for R. C. Johnson, guard, \$20.60; do you know whether R. C. Johnson acted as guard?—A. I don't know.

Q. Who told you that he did?—A. I only know as the information was given there by the parties making up the returns.

Q. Now, Mr. Hill seems to have been accompanied on the trip by a man by the name of Clemmens—Cullins; Mr. Cullins wouldn't have given that information. You would have gone to Mr. Hill?—A. Yes, sir.

Q. Then if there is anything wrong in this account Mr. Hill is responsible for it?—A. Certainly; for he had entire charge of it.

Q. Look at that warrant—arrest of Lafayette Hamilton, Charles L. or N. Cullins; do you know when that deputization was put on there; Deputy Cremmens (?) put in as marshal in that case?—A. No, sir.

Q. You know that was given to Mr. Hill?—A. My recollection is Mr. Hill took that writ.

Q. You never saw W. B. Cremmens but once, and that was when he came back with the prisoner?—A. Don't know that I ever saw him. In that case the tab was made up entirely without my knowledge, and if Mr. Cremmens was here he made his settlement with Mr. Wheeler, and I had nothing to do with it. Mr. Wheeler always made his own settlements with these deputies; something I never had anything to do with.

Q. I notice in your accounts, or in Mr. Wheeler's accounts rather, made up by you, that Mr. Louis Vetter is charged as deputy marshal in attendance before the commissioner quite a number of times. How did that charge come to be made?—A. Always reported by a deputy; I always regard Mr. Vetter as being present.

Q. Didn't you know he was receiving a stated compensation from the United States for his labor?—A. Yes, sir.

Q. Didn't you pay him that money yourself every month?—A. Yes, sir.

Q. Then did you think you had a right to use him as a deputy and charge the Government over again for his service in any other way?—A. Well, I was instructed when I came in here that Mr. Vetter might be used as a guard before the commissioner. These deputies invariably reported him, and it was a matter that I really know nothing about.

Q. What was the character of these prisoners? Were they desperate men as a rule?—A. Well, there were cases where they were understood to be desperate.

Q. But the general run—weren't these men simply small violators of the internal revenue law, and cases of that kind?—A. The majority of the cases were of that kind. But I had no communication with the prisoners and knew nothing about them—never came in contact with them.

Q. Did you think it was necessary to use two deputy marshals to watch these prisoners before the United States commissioner?—A. I couldn't say. I asked the question several times why they were reported, and the answer given was it was necessary to have some one in the room as the deputies were called out frequently. That was the explanation given.

Q. Was it not a general custom in this district to use two deputy marshals in this district at examinations before the commissioner?—A. Yes, sir; I believe it was.

Q. Here is a subpoena said to have been served on Leonidas Walker February 3, 1881, at McLeansborough—197 miles traveled, at 6 cents a mile, making \$11.82 cents—while it appears that Mr. Leonidas Walker made that service on himself?—A. That certainly is an error, for the man couldn't serve himself.

Q. It isn't likely he would travel 197 mile to serve himself?—A. No; that is an error.

Q. How do you account for that, general?—A. Well, sir, whoever entered that tab, he just copied the name of the witness.

Q. But this is in your handwriting, general?—A. This part is, of course, but I mean the original.

Q. Isn't that \$11.82 in there a fraudulent charge?—A. I couldn't say as to that.

Q. Wasn't that served on Mr. Leonidas Walker by mail, or wasn't it served on him right here in this town?—A. I couldn't say in regard to that; I don't know Mr. Walker.

Q. Mr. Walker is prosecuting attorney—of what county?

Mr. WINSTON. Of Hamilton; McLeansborough.

A. That is clearly an error.

Q. That \$11.82 ought not to have been charged?—A. No, sir; unless it was charged by some party.

Q. Don't you understand that one can't travel and another man charge for service, don't you understand the law on that point?—A. That was the understanding when I came in here.

Q. My understanding of the law is, general, that service can only be charged for by those who actually perform it. If you give four or five writs to Tom Smith and let them be charged in somebody else's name, Tom Smith can go all over the State and they can be charged to Tom, Dick, and Harry as so many miles from Springfield, each one. That isn't actual travel within the meaning of the law. The law says this service must be actually and necessarily performed, and the charge must be made by the man who performed the service. Here is an account against the United States for service in arresting Joseph B. Cowl January, 1880. You will observe Mr. Cowl, according to this account, was arrested in Springfield, Ill., and there is a charge there for endeavoring to arrest January 25, 26, and 27—three days—\$6—N. B. Ames.

What do you think of that charge?—A. If I recollect rightly, this man Ames

claimed that this person was out in the country and he spent that number of days endeavoring to find him.

Q. And finally found him right in Springfield?—A. I think he found him within a mile or two of the town.

Q. Don't Mr. Ames live in Springfield?—A. Yes, sir.

Q. He would be put to no expense, then, would he?—A. He claimed he had a horse, or something of that kind.

Q. I wish you would look at this account—charges against the United States for the arrest of James M. Garvin, February 15, 1881, at McLeansborough, Ill., and tell me what you know about that case.—A. I know the man was here under arrest and that the marshal made the arrest.

Q. Where?—A. That's a matter I couldn't say, positively. I know I was directed by the marshal to make out the return on the writ in his name, which I did; and I also made up the account under his direction.

Q. At that time the grand jury was in session. Didn't you know the marshal was right here in Springfield?—A. Most of the time he was.

Q. Didn't you know he was at the time this man was arrested?—A. I couldn't say as to that. Frequently he would be out a day, or two days.

Q. There is the warrant under which this man was arrested. You will observe it is a bench warrant. That return is made in your handwriting, isn't it?—A. Yes, sir.

Q. Now, general, how could Marshal Wheeler have traveled down to McLeansborough, 197 miles, arrested this prisoner, and brought him up here without your knowing it?—A. It would have been hard to do, though Mr. Wheeler was frequently in and out—absent for one or two days.

Q. This account is made out in your handwriting?—A. This is my handwriting—if this is not a copy—if this is the original it is my handwriting.

Q. You observe there that the Government has been charged \$55.72 for service in arresting that man?—A. Yes, sir.

Q. Where did you obtain the information on which you made out that account?—A. I certainly got it from the person who served the writ.

Q. Well, according to the return on the warrant, which is in your handwriting, Mr. Wheeler served that writ, didn't he?—A. Yes, sir; he served that writ.

Q. Then you must have got your information from Mr. Wheeler?—A. Yes, sir.

Q. That, then, is what I am to understand?—A. Yes, sir.

Q. Mr. Wheeler, then, told you he arrested this man at McLeansborough?—A. It must follow.

Q. Told you he traveled 197 miles on that writ?—A. Can't say he actually said he traveled that, but he evidently told me the mileage was 197 miles on writ.

Q. Is there any way possible that you could have made up that account without Mr. Wheeler having given you the information?—A. No, sir; I don't think it is possible. Don't know anything about Mr. Garvin, where he lived or anything about it.

Q. Then if there are any fraudulent items in that account, Mr. Wheeler gave you the information on which such charges were made?—A. Yes, sir.

Q. What would Marshal Wheeler be entitled to in this case if we show beyond any question that this man was arrested right in the hall of the court-house, right here in Springfield?—A. My understanding is he would be entitled to \$2.50.

Q. Then \$53.22 of that account is fictitious apparently?—A. Unless the mileage was actually traveled as set forth, it is.

Q. I wish you would look at this case. This is an account against the United States on account of arresting William Baldwin, March 4, 1881. He appears to have been arrested by Marshal Wheeler, at Jacksonville, Ill. I wish you would please tell me what you know about that case.—A. Well, I don't know unless the arrest was made by Mr. Wheeler.

Q. Who told you to make that indorsement on that warrant, general?—A. Must have been by the direction of the marshal. I never made any return without his direction.

Q. I wish you would look at that telegram, general—a telegram from Jacksonville, Ill., dated March 4, 1881, to the marshal, and signed by R. C. Johnson, deputy.—A. I have no recollection of ever seeing that dispatch.

Q. That shows beyond question that Marshal Wheeler did not arrest William Baldwin?—A. Looks like it.

Q. Don't it show positively that he did not arrest him?—A. Yes, sir [picking up the warrant]; that, by J. N. Reece, should not be there. If Mr. Wheeler made the arrest the return on the warrant was made by his order.

Q. Suppose Mr. Johnson made that arrest. Then by whose direction did you make that return on the warrant?—A. Must have been made by Wheeler. I didn't make any return unless instructed by him to do so. It may possibly be an error.

Q. I want to call your attention to an item or two in this account. From that telegram it appears that Baldwin was arrested without a warrant, doesn't it?—A. Looks that way; yes, sir.

Q. And that he came to Springfield with Deputy R. C. Johnson. When he got to Springfield the warrant was sworn out, and was probably served on him here. Now, in the account there is a charge against the United States of \$2.10 for 35 miles' travel upon this warrant. This is purely fictitious, isn't it?—A. If it wasn't traveled on it shouldn't be there.

Q. From the evidence before you it is clearly fictitious?—A. From the dispatch I should think it was.

Q. By inserting the name of Wheeler you obtained \$3.80 for transporting that prisoner?—A. It is the same with Johnson.

Q. If Johnson's name was where Wheeler's is it wouldn't have cut any figure?—A. Would be entitled to the same.

Q. But if it had been there you wouldn't have charged \$2.50 for Mr. Johnson for serving the subpoena in Jacksonville that day?—A. He was a witness, I remember.

Q. Couldn't do it at all, could you?—A. No.

Q. Then that is purely false, fraudulent, and fictitious—that charge, isn't it?—A. According to this dispatch here, and if the man was arrested and brought in without any warrant.

Q. Let me have Mr. Baldwin's affidavit there; that will enlighten the general's mind.

Mr. WINSTON. The warrant couldn't have been issued till the man got here; subpoena appeared to have been served at Jacksonville before he was brought here.

Q. That account seems to have been made out very systematically with a view of getting as many fees as possible; if the facts had been stated as they are those charges couldn't have been made against the United States. (Affidavit of Baldwin read; also the affidavit of Johnson in which 1884 instead of 1881 appeared, and was acknowledged by the examiner to be his own error in drawing the affidavit.) There are the facts in that case.—A. Well, sir, I made up that return by order of the marshal, and this is J. N. Reece should not be there.

Q. Do you claim that you made up this account by order of the marshal?—A. Yes, sir.

(At this point the examiner administered the oath to witness, swearing him to the statements already made, and any that should be made hereafter as true.)

Q. (Exhibiting.) What is that?—A. A subpoena, I think, I traveled on going down there—Effingham County.

Q. Did you serve that man?—A. I can't say positively I did. I met him, but I don't know whether I served him at that time or not. If I recollect right he was the city marshal.

Q. This refers to a subpoena served January 14, 1882, on H. C. Henry, at Mason. Do you claim to have traveled 97 miles and served that?—A. I traveled on the subpoena. I was going to the east part of the State and carried the subpoena.

Q. You noticed the date of that, January 14, 1882. You claim to have served that man at Mason on January 14, and now you will observe a service of H. W. Brown at Altamont on the same day.—A. That may be.

Q. That's physically impossible.—A. Altamont isn't very far from where he resides.

Q. But after you served him at Mason City how could he come down here and get a subpoena and travel 96 miles on it and serve it?—A. I don't understand it. I know I traveled on the subpoena.

Q. Didn't you give Mr. Henry a subpoena for Mr. H. W. Brown at Mason City?—A. I don't remember whether I did or not. Don't think I did; no recollection of doing that.

Q. There is the subpoena which was alleged to have been served by you on January 17, on R. W. Hindman, at Mount Vernon, Ill. Look at that and tell us what you know about it.—A. If my recollection is right I was visiting a military company at Harrisburg in the southern part of the State and had that subpoena with me. I think I was on the Louisville and Nashville train; had time to stop there and left the subpoena, I think, on the train. I don't remember whether I met Mr. Hindman at that time or not.

Q. Who did you leave the subpoena with?—A. If I recollect right I left it with the mail agent on the train.

Q. You didn't stop at Mount Vernon, did you?—A. Not any great length of time. I was there probably ten minutes.

Q. There is a subpoena said to have been served by you on January 17, at Weldon, Ill., on Sophrena Hartford and John Nelson. What have you got to say about that?—A. Well, sir, that's an error.

Q. Did you travel 57 miles and serve that subpoena?—A. No, sir; I didn't.

Q. Where did you serve it?—A. I don't know that I served it. I would have to refresh my memory as to that.

Q. You know you didn't travel 57 miles to serve it?—A. Yes, sir.

Q. Then that charge there is fictitious (\$2.42)?—A. It is an error evidently.

Q. I wish you would look at that service of a subpoena on George Dunway, January 19, at Mahomet.—A. At that time I had business with Mr. White, of Hoopstown, about the purchase of some land. He desired to purchase some land of me in Christian County, and I made a trip—went by way of Bloomington, and from there to Champaign, and at Mahomet—I am not positive whether I saw the man or not, but I stopped there a few minutes—went from there to Champaign, and from there to Hoopstown.

Q. Do you recollect of ever having served that man?—A. That man Dunway I think I served. I wouldn't be positive, but I know I traveled on the subpoena. Mahomet I think is in Champaign County.

Q. Whose writing is that; isn't that yours, with a stub pen [exhibiting]?—A. It looks very much like it, but still I wouldn't be positive.

Q. An account against the United States for service alleged to have been rendered in the arrest of Edward Daily, January 13, 1882, at East Saint Louis, Ill.?—A. Mr. Carrigan frequently did work for the office.

Q. Is that account made out in your handwriting?—A. I wouldn't say positively whether it is or not.

Q. What is your impression about it?—A. I don't think it is. (An admitted resemblance to his handwriting.)

Q. Here is a charge of \$9.60 for a guard, B. Luddington, in this case; do you know anything about that man?—A. Don't know Mr. Luddington.

Q. Where did you get the information that he was a guard in that case?—A. Got it from Mr. Kerrigan.

Q. If you made out that account you swear positively that you got the information from Mr. Kerrigan, who said he was his guard?—A. Yes, sir.

Q. Eighty-one dollars and forty-two cents the total amount of that account; I wish you would look at the case—charges against the United States on account of the arrest of David Calvert on January 19, 1882, and tell me what you know about that case.—A. I have no knowledge only as presented by this tab here.

Q. That's in your handwriting, isn't it?—A. Yes, sir.

Q. From whom did you obtain the information upon which you made out that account?—A. From the marshal.

Q. Do you swear positively to that?—A. No other source from which I could get it.

Q. What is the total amount?—A. The total footing is \$81.42.

Q. If that man was arrested right here in Springfield, how much is the office entitled to on that account?—A. If he was arrested here the office would be entitled to \$8.50.

Q. I wish you would look at this account against the United States for the arrest of Samuel Gates in January, 1882, and tell us what you know about that.—A. I know nothing only as it is shown by the tab there.

Q. By the tab you mean the account?—A. The account; yes, sir.

Q. That account is in your handwriting, isn't it?—A. Yes, sir.

Q. Where did you get the information on which you made up that account?—A. The only source I could get it from is the marshal.

Q. Do you swear positively, then, that you got the information on which you made out that account from him?—A. There is no other source from which I could.

Q. I wish you would look at that warrant for the arrest of Samuel Gates. Isn't that indorsement in your handwriting?—A. This Wheeler is in my handwriting; 27th of January is in my handwriting; that is not.

Q. You don't know where that man was arrested, you say?—A. No, sir.

Q. All you know about it, then, is what Marshal Wheeler told you?—A. Yes, sir.

Q. What is the total footing of that account?—A. Eighty dollars and ninety-two cents.

Q. If Mr. Gates was really arrested in Springfield, how much would the marshal be entitled to?—A. He would be entitled to charge \$8.

Q. Then the difference between \$80.92 and \$8 is fictitious?—A. If those are the facts, it is.

Q. I wish you would look at this—alleged service of P. D. Tyrrell in arresting one Thomas Andrews, January 30, 1882. Tell us what you know about that.—A. I know Mr. Tyrrell brought the man—I think that was the case—brought him from Belleville and made that return. I recollect in that case of Mr. Tyrrell he acted rather mysterious about it, of course, and I asked him some questions, and the impression was left on my mind that he was using this man Andrews in some counterfeit cases he was working up and had him confined in jail; and, if my recollection is right, Mr. Wheeler paid him \$10 at one time. He didn't want to take it, and I don't think there was any receipt given for it.

Q. Yes, there was, and that receipt accompanies the emolument return, too. Who furnished you the information on which this account was made out?—A. Mr. Tyrrell.

Q. Positive of that?—A. Yes, sir.

Q. Sure he told you Patrick Kerrigan was guard on this occasion?—A. Yes, sir.

Q. Swear positively to that, do you?—A. My best recollection—satisfied Kerrigan was here at the time.

Q. I wish you would look at the case of an account against the United States for service on account of the arrest of James Carlin, January 31, 1882, and tell us what you know about that?—A. I have no knowledge, only as gained from the tab. In that case Mr. Crisel made his return and dictated the account.

Q. Do you swear positively that Mr. Crisel gave you the information on which you made out that account?—A. Yes, sir; no other way of my getting it.

Q. Are you positive Mr. Crisel told you he traveled 197 miles to arrest that man?—A. I can't say he said he traveled 197 miles, but the mileage to be charged was 197.

Q. Didn't Mr. Crisel tell you when he arrested James Carlin and brought him in A. I have no recollection about the case at all. It strikes me that this man Carlin here, that he arrested him at a place called Williamsville, 12 miles from Springfield?—I heard Wheeler and Crisel discussing the point, I think—had made a trip to McLeansborough for this man Carlin, and he wasn't there. My recollection is, they were standing at my desk, and that I was busy writing, and when they got ready to make the tab, I took a tab out of my drawer and made it out as directed by Mr. Crisel, and the mileage as given was 197.

Q. Let me have Crisel's statement in the Carlin case. I want to read that to you [reads the affidavit of Crisel].—A. Well, that information certainly came from Crisel. There was a conversation held there. It seems to me this warrant had been issued before that and some one had made a trip on it to McLeansborough and failed to find the party. I think this is the case.

Q. Then do I understand you to admit that you were aware this man was arrested 12 miles from here?—A. No, sir. I heard that conversation about traveling to McLeansborough, 197 miles, on the writ, and I made up the tab as shown here from data given by Mr. Crisel. I had no knowledge of this.

Q. Look at the warrant for the arrest of James Carlin. Isn't that indorsement in your handwriting?—A. Yes, sir.

Q. Do you swear that Mr. Crisel signed that after it was made out?—A. Yes, sir.

Q. Swear to that positively, do you?—A. I do most assuredly.

Q. How much of that account is correct, if this man was arrested at Williamsville, as Mr. Crisel says he was?—A. Would be entitled to \$11.92.

Q. Out of \$80.92?—A. Yes, sir.

Q. Sixty-nine dollars incorrect. Look at this account for the arrest of Samuel Proting on February 2, 1882. That in your handwriting?—A. Yes, sir.

Q. Where did you obtain the information on which you made out that account?—A. From Mr. Kerrigan.

Q. Do you swear positively that Mr. Kerrigan gave you the data?—A. Yes, sir.

Q. Do you swear positively that Mr. Kerrigan told you he had a guard named P. D. Tyrrell in that case?—A. He certainly did, for I had no other source of information.

Q. (Reading the affidavit of Kerrigan.)—A. The account was made up in the way it was given.

Q. Is that on the warrant in your handwriting?—A. Yes, sir. He brought it in and asked me to make out the return—stood right there—got his tab taken to the marshal, and Mr. Kerrigan got his money.

Q. I wish you would please look at this account, General, against the United States for the arrest of William Grady, February 2, 1882, and tell me whether or not you know anything about that?—A. I know nothing only as shown there by the return.

Q. Who did you obtain the information from on which you made out that account?—A. Obtained it from the marshal.

Q. Are you absolutely positive about that?—A. Yes, sir; as I stated, I have no other way of getting the information.

Q. What is the amount of that?—A. Thirty-two dollars and ten cents.

Q. If that man was arrested in Springfield what would the marshal be entitled to?—A. Eight dollars.

Q. Eight dollars out of \$32.10?—A. Yes, sir.

Q. Now look at this account for the arrest of Henry Winters, February 20, 1882.—A. That is in the same category with the rest.

Q. That account is made out in your handwriting?—A. Yes, sir.

Q. Where did you get the information on which you made it out?—A. Got it from the marshal.

Q. Isn't the indorsement on the warrant in your handwriting?—A. Yes, sir.

Q. Sixty-two dollars and twenty-two cents taxed there, isn't it?—A. That's merely from information in the clerk's office—taken from this.

Q. Isn't that taxation of fees in your handwriting?—A. Don't think it is. That's merely the footing of this tab here.

Q. If that man was arrested in Springfield, what was the marshal's proper fee out f that?—A. Eight dollars.

Q. Eight dollars out of \$61.22?—A. Yes, sir.

Q. You made out this account on information furnished you by the marshal?—A. Yes, sir.

Q. Absolutely positive about that?—A. I have no knowledge of the case other than that which was given to me by the party serving.

Q. I wish you would look at this account for the arrest of James Martin, March 9, 1882, and tell me whether or not that account is in your handwriting?—A. Yes, sir; I think it is.

Q. Where did you obtain the information on which you made out that account?—A. Obtained it from Mr. Crisel.

Q. Did he tell you he had a man by the name of James Randall as a guard in that case?—A. He certainly did. These accounts are made up simultaneously with the making of the return; the deputy would take the tab to the marshal and the marshal would settle with him on the basis of this account.

Q. (Reading affidavit of Crisel.)—A. Mr. Crisel gave the data and took the tab to the marshal's desk, and he would settle with him for the work done, as shown by that tab.

Q. (Reads an affidavit in the Walker case—Charles Walker.) I wish you would please look at this account for the arrest of Elisha E. Fox, May 20, 1882, and tell us what you know about that.—A. I have no knowledge only as presented by this tab.

Q. Who furnished the information on which you made out this account; it is in your handwriting?—A. Yes, sir; the marshal gave the data.

Q. The marshal must have told you he arrested this man at Jacksonville, according to your statement?—A. Yes, sir.

Q. Isn't the return on this warrant in your handwriting?—A. Yes, sir; but the return was made by the direction of the marshal.

Q. How much would the marshal be entitled to on this case if that man was arrested at Springfield?—A. Six dollars and fifty cents.

Q. Out of \$17.60?—A. Yes, sir.

Q. Please look at this account for the arrest of William J. Wyatt, June 3, 1882, and tell me whether or not that is in your handwriting.—A. Yes, sir.

Q. You made out this account?—A. Yes, sir; it is in my handwriting.

Q. Where did you obtain the information on which you made out that?—A. That was given me by the marshal or Mr. Johnson in that case.

Q. Do you say this information was given to you by either the marshal or Mr. Johnson?—A. Yes, sir; I think Mr. Johnson gave me that information.

Q. Now, I wish you would please look at the indorsement on that warrant and see if that Jacksonville has not been changed to Springfield.—A. It has.

Q. That is in your handwriting, isn't it?—A. Don't think that's my handwriting.

Q. This Springfield is what I am talking about.—A. Don't think it is my handwriting.

Q. Before that change was made on that warrant this indorsement was correct, wasn't it?—A. Receiving the warrant at Jacksonville?

Q. Yes, sir.—A. I couldn't say.

Q. Mr. Johnson says so, don't he?—A. I don't know.

Q. Right here.—A. He says he received it at Jacksonville.

Q. The account shows received it at Springfield—charging \$2.80 travel—Jacksonville scratched out and Springfield inserted in order to put that in?—A. That would be the inference.

Q. I wish you would look at this account for the arrest of Charles H. Fox, June 7, 1882, and tell me what you know about that case?—A. I know nothing only as I see on the tab.

Q. The account is made out in your handwriting?—A. Yes, sir.

Q. Where did you obtain the information on which you made out the account?—A. From Mr. Johnson.

Q. Absolutely positive about that?—A. I have no other means of getting the information only from Mr. Johnson.

Q. Please look at this account for the service of a subpoena on Robert Huston, September 20, 1882, and tell me whether or not you served that subpoena?—A. I traveled on the subpoena to Braidwood, but can't say positively whether I served the subpoena at that time or not.

Q. Why did you go to Braidwood?—A. One thing was to serve that subpoena.

Q. Did you stop at Braidwood?—Yes, sir; five or ten minutes.

Q. Just while the train would stop?—A. Yes, sir.

Q. You were on your way somewhere else, were you?—A. At that time I made a stop at Joliet.

Q. Was that on public or private business?—A. Hardly either—ran up there and made a stop and came back.

Q. On pleasure, then?—A. Well, no; on a little matter of private business.

Q. You didn't serve this subpoena at that time?—A. I don't remember whether I did or not; don't think I did.

Q. Here is a subpoena at Sauneman, on the Wabash, served September 25, 1882. You actually traveled on that subpoena?—A. Yes, sir.

Q. Served it?—A. On one of the parties.

Q. Which one?—A. I think on Cording.

Q. General, there is an alleged service of a subpoena—a grand jury subpoena—by you on November 23, 1882, upon H. C. West and W. W. Redman, at Ashland. Did you serve that?—A. I served Mr. West.

Q. Where?—A. I think at Ashland. I made two trips on that.

Q. You claim that you actually traveled on that subpoena?—A. Actually traveled on it and made two trips. It was in the case of a man named Harry West.

Q. No, it was a grand jury subpoena.—A. Wanted in that case.

Q. Did you know M. A. Sullivan, a member of the legislature, in March, 1883?—A. I know there was a Sullivan.

Q. Do you know of his ever having been arrested?—A. Yes, sir.

Q. Who made out the account for the arrest of Mr. Sullivan, in March, 1883?—A. In my handwriting, but I know Wheeler made out his own tab.

Q. This information, then, was furnished you by young Wheeler—L. E. Wheeler?—A. Yes, sir.

Q. Do you swear the information as you have it there was received from him?—A. Yes, sir.

Q. What kind of a system did you have in the office while you were chief deputy marshal?—A. In what particular?

Q. In regard to the management of affairs in the district—what sort of system did you have, or did you have any?—A. I don't know; I just followed the system as I found it when I came in there.

Q. Don't you think the office was very loosely managed?—A. I think it was; might have been improved. I think it was improved the last year and a half.

Q. Are you not satisfied from what you have seen that many fraudulent and fictitious charges have crept into the accounts?—A. Well, judging from this information given me to-day it looks that way. I wasn't aware of it before. In making up these accounts it was always the rule to have the marshal go over them carefully, and he did revise them carefully, scrutinized the accounts with a view to strike out any irregularities if there were any.

Q. Is it possible that these accounts, where marshal Wheeler is the party who performed the service, could have been submitted to the Department for payment and sworn to by him without his having seen them?—A. No, sir; it was not possible—never was an account made or entered without Wheeler's going over it carefully.

Q. Then do you claim that Mr. Wheeler examined every account before it was presented to the court for approval and to the Department for payment?—A. I claim that before any account was made up Mr. Wheeler would go over them carefully and examine them.

Q. I don't understand what you mean by made up.—A. These tabs or accounts as made up by the deputies. They would lie in the drawer sometimes three or four or five weeks. When the time came to make up accounts, these tabs made by the deputies would be taken up and arranged in their order, and then would be submitted to Mr. Wheeler. He would carefully inspect them, and if they were all right he would so declare and then turn them over and have copies made of them—duplicates or triplicates—most of them triplicates. Then he would go over them again and inspect the accounts. This is the *modus operandi* in making up the accounts. They would be made up probably two or three times in the six months. That's what I mean by making up—arranging them in a shape so abstracts would be made.

Q. How is it possible, then, that these accounts in Mr. Wheeler's name, where he admits himself that he did not perform the service, have been presented to the Department?—A. That's something I can't explain.

Q. He must have known it, must he or not?—A. I don't see how it is possible for a person examining the accounts—it would seem he would certainly examine—understand that the accounts were there.

Q. You invariably submitted to Mr. Wheeler every account you made up with his name on it, for his examination and approval?—A. Yes, sir; never presented an account to the Government but what passed through Mr. Wheeler's hands to my knowledge—that is, after I came in. The point is right here: Mr. Wheeler was in there some eight months before I was, with Mr. Dresser, one of the best deputies in the county. Mr. Wheeler was careful to study all these accounts. After I came in, Dresser remained a while, and I received my instructions from Mr. Dresser and the marshal, they having had an experience of eight months before I had anything to do with it. In making up these accounts, of course I was very careful to submit them.

Q. Did Marshal Wheeler devote much personal attention to the office?—A. In the office most of the time.

Q. Did he supervise, manage, scrutinize the papers?—A. Yes, sir; there never was a warrant, I think, ever went out but he knew about it, and where it went—I will

say this, unless there was a custom among these deputies of coming in—they had information that warrants would issue, of course, and it would be desirable among themselves to get hold of these warrants; in that way warrants may have gone out that Mr. Wheeler knew nothing about.

Q. Then Mr. Wheeler didn't run his office, but the deputies?—A. Well, that part. It was frequently the case that warrants were received and served by the deputies before the marshal or anybody in the office knew.

Q. Mr. Wheeler, then, acted as a sort of figurehead; he was a fellow to get \$6,000 a year, no difference how it was made?—A. He did a good deal of work. He was around the office—no, I couldn't say he was a figurehead.

Q. Then, if he wasn't a figurehead, he worked—examined and scrutinized these papers?—A. Scrutinized the papers, yes; examined them.

Q. Did you ever notice him examining these accounts?—A. These tabs?

Q. Yes, sir. Did he examine them with a good deal of care?—A. I so understood it; went over them in detail—that is, each tab.

Q. Each item?—A. So I understood.

Q. Did he ever call your attention to any particular item?—A. Yes, sir; I have had my attention called to particular items in there. He would want some information on some particular point. I would give him what information I had on the point. My time during the session, of course, was devoted principally to taking care of the pay-roll and disbursement of the funds.

Q. Nevertheless, you had general supervision of the office?—A. Certainly.

Q. You were the man Mr. Wheeler looked to for the performance of this service?—A. Of course, I was to make up the accounts as given to me, and I did make them up as furnished—not on my own information or knowledge that I had myself. In conclusion I desire to add that I am in no way responsible for the errors, irregularities, or fraudulent charges in Marshal Wheeler's accounts. I simply acted as a clerk and made up the accounts upon information furnished to me by Marshal Wheeler and the different deputies. I simply put in the accounts what they told me to put in. I swear positively that I never inserted Marshal Wheeler's name in any account without having first been instructed by him to do so.

J. N. REECE.

Subscribed and sworn to before me this 12th day of June, 1884, at Springfield, Ill.
JOEL W. BOWMAN,
Examiner, Department of Justice.

I, James A. Winston, hereby certify that I was present when the questions were asked and the answers given by J. N. Reece, and that after the same was reduced to writing I saw him carefully read over the same and sign his name thereto and swear to it, which he did voluntarily this 12th day of June, 1884.

JAMES A. WINSTON.

EXHIBIT No. 52.—*Affidavit of Jacob Wheeler, late United States marshal for the southern district of Illinois, in relation to various irregularities and false charges in the accounts rendered by him.*

Personally appeared before me, Joel W. Bowman, examiner Department of Justice. JACOB WHEELER, who, upon being first duly sworn according to law, deposes and says:

I reside at Springfield, Ill., and am at present collector of internal revenue of the eighth Illinois district. I was formerly United States marshal for the southern district of Illinois. I recollect the case of Walker Hammon, who I transported to the Joliet, Ill., penitentiary in February, 1880. I actually transported this prisoner to the penitentiary. I employed C. F. Gross to act as guard over this prisoner, and he did so act from Springfield to the penitentiary. I recollect the case of Samuel H. Murdock, who I arrested at Havana, Ill., in March, 1880. I arrested and actually transported this prisoner to Springfield.

In the case of John Robinson, arrested July 1, 1881, and Ruben Young, arrested July 2, 1881, I recollect these cases. I had nothing whatever to do with these arrests. The charge of \$12 for travel by me on the John Robinson warrant is false. I did not travel any distance on this warrant. The charge of \$20 charged for me in transporting John Robinson 200 miles is false. I did not transport John Robinson any distance. The charge of \$4 for endeavoring to arrest John Robinson is wrong. I did not endeavor to arrest him at all. The facts in these cases are as follows: These warrants for the arrest of Robinson and Young were delivered to Deputy Marshal G. C. McCord, who in connection with C. C. Wilson effected the arrest of the parties and brought them to Springfield. I had nothing whatever to do with the cases, and remember when they returned with the prisoners to Springfield that McCord wanted credit for the fees in both cases, but I only allowed him the fees in one case. The returns on the warrants for the arrest of Robinson and Young are in the names of G. C. McCord and C. C. Wilson, and bear out my statement that I had nothing to do with the cases.

I have no recollection of having served a subpoena on C. F. Luizie at Du Quoin, Ill., in December, 1882. I know I never traveled 138 miles to serve this subpoena, and if I ever did serve it, I served it in Springfield, or sent it to him by mail.

I have no recollection of having served a subpoena on Silas Fannington at Grafton, Ill., in December, 1882. I know I never traveled 95 miles to serve this subpoena. If I ever served it, I served it in Springfield or sent it to him by mail. I don't know anything about the case of William Baldwin who appears to have been arrested at Jacksonville, Ill., March 4, 1881. If I ever arrested William Baldwin at all, I arrested him in Springfield, Ill., but I do not think I ever had anything to do with the case. I am positive that I never traveled 35 miles to serve a subpoena on R. C. Johnson. I have no recollection of having served a subpoena on L. O. Norton at Du Quoin, Ill., in July, 1882. I know I did not travel 138 miles to serve this subpoena, and if I served it I did so in Springfield, or I may have served it by mail. I have no recollection of having served a subpoena on Joseph Halluistein at Altamont, Ill., in January, 1882. I did some work at Altamont, but I do not remember exactly what it was. My impression is, however, that I actually performed this service. I do not remember having served a subpoena on Thomas A. Mathews at Saint Louis, Mo., in January, 1882. I do not think I performed this service. If I did serve this subpoena I either served it in Springfield or served it by mail. The 96 miles' travel on this subpoena is incorrect.

I have no recollection of having served a subpoena on Patrick Kenigan at East Saint Louis, Ill., in February, 1882; I never served Mr. Kenigan at East Saint Louis in my life. If I ever served this subpoena on Mr. Kenigan I served it on him at Springfield, Ill. I do not positively recollect whether or not I served a subpoena on Patrick Kenigan at East Saint Louis on February 14, 1882. I know on one occasion I went to East Saint Louis to serve Mr. Kenigan, and when I got there he passed me on another train, and I came back to Springfield and served him at Springfield. This may or may not be the case; I am not positive.

I do not know whether I served a subpoena on W. M. Crissel on February 15, 1882, or not, but if I did I served it on him in Springfield. I am positive that I did not travel 197 miles or any other distance to serve this subpoena.

I do not recollect anything about the arrest of Michael O'Donnell at Edgewood, Ill., on January 6, 1882. I am not positive, but my impression is that I performed this service. I do not know anything about the arrest of David Calvert, who appears to have been arrested by me at McLeansborough, Ill., on January 19, 1882. If I ever arrested David Calvert at all I arrested him in Springfield, Ill.

I do not recollect anything about arresting Samuel Gates at McLeansborough, Ill., on January 27, 1882. I know I never made this arrest at McLeansborough. If I ever arrested Samuel Gates, I arrested him in the city of Springfield, Ill. I am not absolutely positive about the case of William Grady, who appears to have been arrested by me near Manito, Ill., on February 2, 1882, but my impression is that I arrested Grady at Springfield. He was here at that time as a witness. If I arrested him at all, I arrested him in Springfield.

I do not recollect that case of Henry Winters, who appears to have been arrested by me at McLeansborough, Ill., on February 18, 1882. I may have arrested him, but if I did I arrested him in Springfield. I know that I never arrested this man at McLeansborough.

I do not recollect anything about the case of Elisha E. Fox, who appears to have been arrested by me at Jacksonville, Ill., on May 20, 1882. I know I never traveled to Jacksonville to serve this warrant. If I ever arrested Elisha E. Fox I arrested him in the city of Springfield, Ill.

I do not recollect having arrested Jonathan Vanoy, on an attachment, near Atlanta, Ill., in July, 1882. I don't remember anything about this case. I may or may not have made this arrest. I don't remember anything about the case.

I don't recollect the circumstances in the case of James M. Garvin, who appears to have been arrested by me at McLeansborough, Ill., on February 5, 1881. I am positive that I never traveled from Springfield to McLeansborough on this warrant; nor did I ever arrest Mr. Garvin at McLeansborough. If I ever arrested Mr. Garvin at all I arrested him at Springfield.

I recollect the arrest of Christopher Solderman at Hopedale, Ill., on July 26, 1883. I actually arrested and transported this prisoner from Hopedale to Springfield, Ill.

JACOB WHEELER.

I, James A. Winston, hereby certify I was present when the foregoing statement was made, and that I saw the above-named Jacob Wheeler carefully read over the same and sign and swear to the same voluntarily this 10th June, 1884.

JAMES A. WINSTON.

Subscribed and sworn to before me this 10th day of June, 1884, at Springfield, Ill.

JOEL W. BOWMAN,
Examiner, Department of Justice.

EXHIBIT No. 53.—*Affidavit of Jacob Wheeler, late United States marshal for the southern district of Illinois, relative to the general management of the duties of the office during his incumbency.*

Personally appeared before me, Joel W. Bowman, examiner, Department of Justice, JACOB WHEELER, who, upon being first duly sworn according to law, deposes and says:

I want to make this general statement in regard to the management of affairs in this district during my incumbency. I was entirely unfamiliar with the duties appertaining to the position when I was appointed marshal, and I endeavored, as near as possible, to discharge the duties of the office as well as I could. I now see that my administration has been exceedingly loose and imperfect, and that false, fraudulent, and fictitious charges have crept into my accounts. I wish to swear positively that this was entirely unintentional on my part, and that I have endeavored to prevent any charge being made in my accounts except those which were lawful and just. I wish to say that I am perfectly willing to refund all moneys which I have collected from the United States on account of these false and fictitious charges, which my attention has been called to since this investigation commenced. I agreed with Messrs. Reece, Davis, and McCord, three of my deputies, when I took charge of the office, that I was to first receive my maximum compensation before any allowance was to be made to them. I will, however, add that if I had it to do over again I would not make any such arrangement, for I can now readily see what an incentive this was to cause my deputies to manufacture fees and swell the accounts against the United States as much as possible, for the larger the accounts were made the larger compensation they received. I have, however, always instructed all my deputies never to make any charge for constructive mileage, or for any service except where they actually performed the services charged for. I admit that I have not given the necessary attention to the duties of my office, and that I have relied entirely too much on others and have not been sufficiently careful in the examination of my accounts and watching the details of my office. In examining my accounts I gave more attention to looking to see as to whether or not excessive mileage was charged, and that no duplicate charges were made.

JACOB WHEELER.

Subscribed and sworn to before me this 10th day of June, 1884, at Springfield, Ill.

JOEL W. BOWMAN,
Examiner, Department of Justice.

I, James A. Winston, hereby certify that I was present when the foregoing statement was made by Jacob Wheeler, and that I saw him carefully read over the same and sign and swear to it this 10th day of June, A. D. 1884.

JAMES A. WINSTON.

WASHINGTON, D. C., June 25, 1884.

ROBERT M. DOUGLAS sworn and examined.

By the CHAIRMAN:

Question. State your age, residence, and occupation.—Answer. I am thirty-five years of age; I reside at Greensborough, N. C.; since the expiration of my commission as marshal I have been principally occupied in attempting to close up my official matters.

Q. How long have you been in the Government service?—A. I was in the service of the United States from, I think, March, 1869, until November of the same year, as assistant secretary to President Grant. About November, 1869, I was appointed private secretary to the President, and remained in that position until the 4th of March, 1873. I was appointed United States marshal under a commission dated April 19, 1873, and held it by successive appointments until the 27th day of February, 1883.

Q. You were marshal in North Carolina?—A. Yes, sir.

Q. You have addressed a letter to the chairman of this committee; please state whether the facts set forth therein are true, and such as you desire to have placed upon the record as your statement.—A. Yes,

sir. I will say, Mr. Chairman, that this statement is not so full as I might make it. It was written after the receipt of your dispatch, and with the view of appearing before your committee at some future time, perhaps during the next session of Congress, and answering any questions that the committee might desire to ask me, with the expectation that in that way a great deal would be brought out which, if put into my written statement, would perhaps make it longer than would be desirable.

Q. You have mentioned the fact that you filed in the Department of Justice, on the 14th or 15th of February last, your answers to the report of Mr. Forney, and to the report of Mr. Bowman and Mr. Weigand. State whether the papers now shown you are the papers so filed by you in the Department of Justice, and which you desire to have made a part of your statement here.—A. (Looking at the papers.) These are copies that were made for me by my former chief deputy from the letter-press copies of the originals.

Q. Then these are copies of the answers that you filed in the Department of Justice to the reports made by the examiners as the result of their investigation into the conduct of your office as marshal?—A. Yes, sir.

Q. Are the statements made in these two papers produced here by you correct?—A. The statements made in those two papers are correct and true, to the best of my knowledge, information, and belief.

Q. You were the marshal, and the figures herein contained were obtained from the books of your office?—A. Yes, sir.

Q. From the best attainable sources of information?—A. Yes, sir.

Q. Is there any other statement that you desire to make?—A. I wish to call the attention of the committee to the fact that in Mr. Forney's report he has made a great many disallowances which, as far as I can ascertain from the copies of the exhibits furnished me by the Department of Justice, are based on no proof whatsoever, except on the fact that the deputies in those cases had the same opportunities of committing frauds that were possessed by Deputies Haney and Kilpatrick, who were subsequently indicted. There are some matters concerning my treatment by the Treasury Department, such as the delay, which seems to me unreasonable, unjust, and oppressive, in the settlement of my accounts; but, as it would require a great deal of time to fully explain that, and as my statement would be based on a large number of official documents, I will not speak of it further at present.

Q. State whether your accounts are still unsettled at the Treasury Department.—A. Yes, sir; I have a great many unsettled accounts. I have stated that in my letter to you.

Q. You are still seeking a settlement?—A. Yes, sir; I am still seeking a settlement, and I hope to obtain one shortly, if I can rely upon the promises of the accounting officers.

WASHINGTON, *June 25, 1884.*

JOEL W. BOWMAN recalled and further examined.

By Mr. DOUGLAS:

Question. Please state whether any frauds were discovered, or alleged to have been discovered, in the accounts of any other deputies, except Haney and Kilpatrick.—Answer. My recollection of that is that the only frauds discovered were in the accounts of Haney and Kilpatrick. I have an indistinct recollection of something in connection with your former chief deputy, Gretter, but just what that was I do not remember.

I think it was that he claimed not to have received his salary as clerk, while you claimed to have paid it. But I do not know that that could be regarded as a fraudulent charge. There was a difference of opinion between you; you claiming certain offsets, and he claiming that he had not received the money.

Mr. DOUGLAS. Gretter claimed that I was owing him, and on my books there appeared a balance in his favor; but he had failed to account for certain funds which I had placed in his hands for disbursement, for the payment of jurors, witnesses, and miscellaneous expenses, for which funds I was personally responsible to the Government. I wrote to Mr. Gretter several times and asked him to come and close up this old matter and account for all the moneys which I had placed in his hands. He promised to do so, but postponed the settlement from time to time, until finally his sudden death ended the matter. A subsequent examination of the books disclosed beyond any doubt whatever that, taking into consideration the sums which he had retained, or failed to account for, he was in my debt. There is an allusion to Colonel Dick in the report of the examiners. I would like to add to what I have already said that Colonel Dick died of the illness from which he was suffering when the examiners were there. He has been dead now nearly a year.

By the CHAIRMAN:

Q. Who was Colonel Dick?—A. He was a clerk in my office, and formerly my chief deputy. He was my wife's uncle.

Q. Was he related to Judge Dick?—A. He was a brother of Judge Dick, the district judge. I told Mr. Bowman when he was in Greensborough investigating my office that Colonel Dick was threatened with paralysis, and that if there were any personal charges against him and he was to be called on for an explanation I feared that the excitement might injure his health, or perhaps endanger his life, and Dr. Hall gave a certificate to the same effect. Colonel Dick never recovered from the disease under which he was then suffering, and before his death he became perfectly helpless, a fact which would appear to justify the opinion which I expressed at that time, and to which the doctor certified. I have alluded to the opinion of the court in the Ebbs case, and also to a letter written by C. C. Lancaster, and if the committee desire it I will file the opinion in the Ebbs case, and also present the original of the Lancaster letter and permit it to be copied for your record.

The CHAIRMAN. You may present it, but we do not care to put it in our record.

Mr. DOUGLAS. I have also a copy of the official correspondence in relation to the books and papers alluded to by Mr. Cameron, which I will hand to the committee for their information.

The CHAIRMAN. Have you ever withheld your books from inspection by the proper officers of the Government?

Mr. DOUGLAS. I would like Mr. Bowman to answer that question.

The WITNESS. Never to my knowledge. When I was in Greensborough Marshal Douglas gave me every facility for making the investigation thorough.

Mr. DOUGLAS. I further gave Mr. Bowman a letter addressed to all my deputies, requesting them to talk with him freely about their affairs, and I am not aware that I have in any way, at any time, hindered the investigation or attempted to conceal anything from the examiners.

The WITNESS. There is no imputation of that kind in our report.

On the contrary, we acknowledge that we were given every facility to make the investigation thorough.

Mr. DOUGLAS. I think that Mr. Weigand's testimony was exceedingly unjust; and, if he intended to say what his testimony apparently says, it was also utterly untrue. As Mr. Bowman knows, my terms of court ran from the spring to the fall, and *vice versa*. Court process would be issued to the marshal from the term of court that was held in April, returnable in October; that process would not be returned until October, and hence the marshal would have no knowledge of the service rendered by the deputy until the return of the process. But the regulations of the Department require the marshal to render his emolument returns within thirty days after the expiration of the half year, and the Department nearly always required me to render the returns before they would grant a requisition for any of my courts. Hence, in making up those returns in August or September, I knew of only a portion of the fees earned on the processes which were returnable at the October terms at Greensborough and Statesville, the November term at Asheville and the December term at Charlotte. I have always included in my emolument returns all fees of which I had any knowledge, or of which I could have any knowledge, from the records of my office at the time when the emolument returns were rendered.

I may add also that the office of marshal, while sometimes apparently affording a compensation of \$6,000 a year, is not a lucrative office, because there are a great many expenses forced upon the marshal by virtue of his office for which the Government makes no allowance whatever; such, for instance, as the loss by exchange, trips that the marshal may be required to make to examine into the correctness of accounts, or into the condition of affairs in his district, the expense of frequently coming to Washington at the suggestion of the Attorney-General, or to obtain either the allowance of his requisitions or the settlement of his accounts, the employment of attorneys to obtain the settlement of accounts, which, I regret to say, has been forced upon the marshal by the action of the accounting officers. All these expenses are to be deducted from the income of the office. I may add further, that frequently when the marshal fails to receive his maximum, he has still to pay all his expenses for clerk hire, stationery, &c., out of the gross fees. I am satisfied that I never made any deduction from the compensation of my clerks on account of any failure on my part to obtain proper compensation for myself.

The CHAIRMAN. From your experience in the office of United States marshal, what is your opinion as to the comparative merits of the fee system and the salary system of compensation?

Mr. DOUGLAS. I have repeatedly urged upon the Attorney-General to recommend to Congress the payment of marshals by salaries, as my written reports will show. I think the marshal ought to be paid by salary. I think he should have no interest whatever in the compensation of his deputies, but should remain as a disinterested party between them and the Government. Furthermore, I think that all questions of fees should be ultimately decided by the Attorney-General. Formerly the Secretary of the Interior (who, before the creation of the Department of Justice, was the official superior of the marshals) had a right to review the decisions of the Comptroller in relation to their accounts. When the transfer was made to the Department of Justice, the Attorney-General decided that, through some omission, the transfer did not convey to him the right formerly exercised by the Secretary of the Interior to decide upon appeal, and hence the decisions of the accounting

officers are without appeal, and in that way great hardships arise. If the Attorney-General had the right to decide appeals in such cases, besides creating uniformity in the allowance of accounts, his opinions would be written out, and could be furnished to the marshals for their information and guidance; whereas the accounting officers frequently disallow an item as not being authorized by law, without giving the marshal any information as to how it contravenes the law.

I will further add that there are charges disallowanced in my accounts, which have remained under suspension for years, of a character that are habitually allowed and paid in the cases of other marshals. As I stated to the Attorney-General, there is but one law common to all marshals (except certain marshals on the Pacific coast and in some of the Territories, who are allowed double fees), and all that I ask now from the Department is that I shall be permitted to take the accounts of certain marshals which have been promptly settled, lay them down and have my accounts adjusted in accordance with the rules followed in the adjustment and settlement of those accounts. If I can be allowed to do that I shall be satisfied.

The following are the letters and papers identified to in the foregoing testimony of Mr. Douglas:

Mr. Douglas to Mr. Springer.

GREENSBOROUGH, N. C., *June 23, 1884.*

SIR: I have just received your telegram of to-day, saying that the committee cannot hear me during this session. I exceedingly regret this condition of affairs, as I am unwilling that any reflections, however slight or indirect, upon my personal or official character should go unanswered.

I have always been able in the past, and am preferred now, to defend myself against all charges of any nature coming from any source whatever.

In 1875 an investigation of my official conduct as marshal, by the committee of which you are now chairman, resulted in my complete vindication.

Again in 1879, after an exhaustive investigation by the Judiciary Committee of the Senate of all charges that had ever been preferred against me, I was unanimously confirmed. The charges preferred by Special Agent Lancaster, in 1880, were so successfully answered by me, that Mr. Lancaster himself, now a practicing attorney, has written to one of my deputies, M. E. Haynie, many of whose accounts he had himself suspended, offering to undertake the allowance of his accounts for a fee of 20 per cent.

In spite of all opposition, personal as well as political, I held the office of marshal for nearly ten years, and ceased to be marshal only upon the expiration of my last commission. I then filed recommendations of the strongest character from prominent gentlemen of both political parties, and especially of the bench and bar. After the appointment of Mr. Keogh, I was distinctly informed by the President that his failure to reappoint me did not in any way arise from a dissatisfaction with my late administration.

On the 6th day of last February I wrote to you inclosing a printed copy of the official correspondence in relation to the books and papers alluded to by Mr. Cameron, and suggesting that you should obtain my written answer to Mr. Bowman's report, and examine it in connection with the report itself. I think that, in justice to me, the examiners should have presented my answers along with their reports, so that the questions at issue could have been fairly judged. As it is, their reports have gone to the world apparently unanswered. Under the impression that I could appear before your committee at any time, I have waited for all the examiners to testify, presuming that Mr. Forney would appear in explanation of his own report and conduct.

Under the circumstances, I earnestly request that you will cause this letter and my answers, the originals of which are on file in the Department of Justice, and copies herewith inclosed, to be printed with the testimony accompanying your report. I will then appear before your committee at any time, during this or the next session of Congress, that you may designate.

The testimony of Mr. Cameron is capable of misconstruction, and consequently does injustice to both Judge Dick and myself. I have a letter from Mr. Cameron dated November 28, 1882, in which he says, "I beg to express my appreciation of the manner in which you co-operated with Examiner Joel W. Bowman, of this Depart

ment, while recently at Asheville, N. C., as a witness of the United States before the grand jury, in the case of United States *vs.* Haney and Kilpatrick, your late deputies."

My only connection with the *trial* of Haynie was as a witness for the United States, summoned at the instance of the examiners, who well knew what would be the substance of my testimony. The court charged in substance that on the trial of an indictment under section 5438 of the Revised Statutes, for presenting a fraudulent claim, *knowing* such claim to be false, fictitious, and fraudulent, the burden of proof rested upon the United States to show the guilty knowledge. Haynie had a fair trial and was acquitted. Kilpatrick has not yet been tried.

Mr. Bowman in his report unreservedly conceded my reputation for strict integrity, and in his testimony admitted that I had given him every facility to make his investigation. Among his more serious errors is that of stating that Judge Dick decided that Haynie's action did not constitute a valid arrest, as the judge's decision, a printed copy of which is herewith inclosed, was directly to the contrary. On page 2, the judge says: "The action of the deputy marshal in this case, and the submission of the defendant to the control of the officer, *constituted a valid arrest.*" Mr. Wiegand's testimony, given on the second day, when *I was not present*, was exceedingly unjust. If he intended to intimate that I had willfully omitted any fees from my emolument returns that ought to have been included, he was guilty of falsehood. I had fully explained in my answers, as well as in my personal examination, that my failure to include certain fees arose from the fact that those fees had not been reported by the deputies when the emolument return was rendered. In spite of my protests, the Department of Justice always insisted upon a prompt rendition of my emolument returns; and I was compelled to make them out to the best of my knowledge, information, and belief. Many of those fees have never yet been paid. Mr. Wiegand's entire testimony was the more remarkable as he had already previously sworn that he "thought that in *my district* the *arrests* were *actually made* and the *prisoners actually transported*, and, as a rule, the *guards* were *actually employed.*" (See page 268.)

My failure to pay my deputies in full was well known to arise from the fact that the Government had not, and has not, paid me. On their face, my accounts show a net balance due to me of over forty thousand dollars. Of course any disallowances made must be proportionately charged to the deputies, and would to that extent reduce my apparent indebtedness to them.

I have now been out of office nearly sixteen months, and yet in that time *none* of my fee accounts have been adjusted by the accounting officers, except some explanations filed by me in February, 1879. Some of my accounts have been lying in the Treasury over eight years, and are still unsettled. I have employed counsel, and have used every proper effort to obtain a settlement, but as yet without avail.

As showing some of the difficulties under which marshals labor, I would call your attention to the following extract from page 9 of the official report of Attorney-General Brewster, for the year 1882:

"UNITED STATES MARSHALS.

"The investigation of the accounts of these officers is placed under the supervision of the Attorney-General. The appropriation for prosecution of crimes enables him to supervise each office and investigate its management. The experience thus obtained leads to the conviction that the present fee-bill might, with propriety, be revised. It has served for the expenses of the courts since February 26, 1853, and its subsequent amendment, approved August 16, 1856. Since then new legislation has enlarged the business of the courts and severely tested the adequacy of the provisions of the bill. *Conflicting* interpretations have been made by the *accounting officers*. *Different opinions* have been rendered by the *law officers*, the controlling force of which has also been *disregarded*; the *courts* have *disagreed* as to its meanings and applications, and the *perplexed officer* has been *forced to present his accounts in different ways in different years*. Thus confusion has arisen, and sometimes injustice has perhaps been done."

Again requesting, as a matter of justice to myself, that this letter and inclosed copies of my answers may be printed with your report, I remain, sir,

Very respectfully,

RO. M. DOUGLAS.

Hon. WM. M. SPRINGER,

*Chairman Committee on Expenditures in the Department of Justice,
House of Representatives, Washington, D. C.*

—
Mr. Douglas to Attorney-General Brewster.

GREENSBOROUGH, N. C.,
February 14, 1884.

SIR: In answering the report of Messrs. Joel W. Bowman and E. B. Wiegand, examiners of the Department of Justice, who recently made an investigation into the

management of my office, I shall confine myself as closely as possible to the allegations contained in the report.

Certain allegations of the report are based on apparent evidence, while others are only the opinions of the examiners themselves.

To the latter class belongs the first charge. I naturally feel some hesitation in speaking of myself. I am glad that my reputation for personal integrity is admitted; but I can scarcely feel gratified at the estimate placed upon my capacity. However, in view of the flattering indorsements of my efficiency lately received from those best qualified to judge, especially from the bench and bar of Western North Carolina, I am willing to let the matter rest; the more so, as the examiners themselves concede my exceptional knowledge of the law and the rulings of the Departments.

It is true that I have had Mr. James W. Dick in my employ since I first became marshal until about the middle of last August, when his health compelled him to quit the office permanently. He is *not* my brother-in-law, being my wife's uncle. I do not know what significance the relation can have, especially as it did not exist at the time of his first employment; but if mentioned at all, it should have been stated correctly. It is true that both Dr. Hall and I told Mr. Bowman that Colonel Dick was not able to undergo any great mental excitement, such as would naturally be caused by calling upon him to answer personal charges, which Mr. Bowman stated was his object in wishing to see him. I did not intimate that they *could not rely on any statement* he might make; but stated in substance that his memory was somewhat failing, and that in his present feeble condition, his examination would necessarily be unsatisfactory.

He is now almost helpless, having no use whatever of his right leg or arm. The fact that he was seen riding on the street may seem strange to the examiners, but I fail to see its importance. If by this any intimation is meant to be conveyed that I exaggerated his condition with a view of preventing his examination, I can only say that any such statement, intimation, or insinuation is utterly false. I will freely admit that his health has for more than a year seriously interfered with the discharge of his official duties, but his intimate knowledge of my accounts, and especially of those now under suspension by the accounting officers, rendered him invaluable to me, and I now seriously feel his loss.

The fact that I have had no surplus for a year, and that his pay came entirely out of my own compensation, should be sufficient evidence that I considered his services necessary. I have been absent a great deal, partly in attendance upon the courts, but principally at Washington, endeavoring to obtain a just and legal settlement of my accounts. Colonel Dick did not have charge of my office during my absence. Mr. John B. Gretter, though not commissioned as such, acted as my chief deputy, which fact was well known throughout my district.

The examiners may have no doubt in their minds of my failure to give the proper attention to my office, but this opinion, coming from gentlemen claiming no personal knowledge of the fact, and having but little acquaintance with the duties of a marshal and the law and regulations governing his conduct, is contradicted by the records of your Department and of my office. My "exceptional" knowledge of the "law and rulings" could only have come from close attention, while the large number of letters and other papers in my own handwriting conclusively prove that I have given to my office an amount of personal labor and attention unusual among officials of my rank. I would refer you to my official letters and reports on file in your Department, and to my checks and accounts in the Treasury. In presenting Exhibit No. 2 the examiners might, in justice to me, have stated that Mr. J. B. Gretter was a bitter personal enemy of mine, and an aspirant for the marshalship, facts which could have easily been ascertained by inquiry. Even he, however, admits that he had no personal knowledge of any failure on my part to give the proper instructions to my deputies. As he was in my office for over four years and five months, he would probably have known of such failures had they happened. You will notice that Mr. Gretter's answer to the second inquiry is evasive, tending rather to a denial. I am somewhat surprised that Mr. Gretter should have complained that the correspondence of the office was neglected, as to him was assigned the particular duty of attending to it. As to my flight to breakfast through the window of the Eagle Hotel, I have no particular recollection. The only occasion that I can now recall when I went with Mr. Deaver to Beaucatcher was one Sunday morning about two or three years ago. It does seem that so grave a crime as refusing to see people on business on Sunday morning before breakfast should be made the subject of judicial inquiry before it is barred by the statute of limitations. On this subject I would here refer to my replies to the written interrogatories asked by the examiners, which I wish to make part of this answer. These replies were made in entire ignorance of the exhibits in the possession of the examiners, and even of the special acts constituting the charges against me.

As to the occurrence mentioned by the anonymous gentleman, who so long stood listening at my door, I of course know nothing. I do not know what Mr. Hildebrand

meant by getting satisfaction. The usual printed instructions were sent to him soon after his appointment; and I have endeavored on all reasonable occasions to give him such further information as he desired.

His affidavit is full of absurd statements. He first states that I would never talk to him on business, and then alleges that the only information he ever did obtain from me (which he has already stated never was obtained) simply confounded him. He further states that I would get in my room, and refuse for days at a time to see my deputies, and yet would talk to *him* for *hours at a time* on any subject that might happen to suggest itself, except business. In their affidavits Messrs. Hildebrand and Setzer should have done me the justice to state that, in addition to the money received from me, they had retained large amounts collected on executions which I was compelled to make good. The affidavit of Mr. Setzer is similar to that of Mr. Hildebrand, and is answerable in the same manner. These two deputies worked together, and gave me a great deal of trouble.

Exhibit 5. This exhibit, and others referring to my indebtedness to my deputies for services rendered, will be answered when I reach the paragraph of the report dealing more particularly with this matter.

It is of course impossible within the limits of this answer to exhibit in detail the account of each deputy, which would be equally useless.

In reference to Exhibit 6, affidavit of Robert Powell, the examiners state that "Mr. Powell could not have had any instructions from Marshal Douglas, for he swears that he did not even know what he was going to be allowed for his services." This statement is not borne out by Mr. Powell's affidavit.

He says: "I never had any *understanding* with Colonel Douglas as to what amount of the fees earned by me should be retained by him." My Exhibit A, copy of a press copy of the letter transmitting Mr. Powell's commission, shows that Circulars Nos. 30, 31, 34, 38, 39, and 40 were then sent to him. You have copies of these circulars on file in your Department. Your attention is especially invited to Circular No. 40, which distinctly states the proportion of fees allowed to the deputy. The fact that Mr. Powell received his money by a sight draft on me, instead of a check from me, has no apparent significance.

The examiners make the broad assertion that I am indebted to almost every deputy in the district. This can be definitely ascertained only by final settlement; and it should be borne in mind that the affidavits of my deputies apparently sustaining it, are based on the accounts as *rendered* by them, and not as *adjusted* by the *Treasury Department*. So material a fact should perhaps have been mentioned by the examiners. No one can feel more keenly than I the hardships to which my deputies, in common with myself, have been subjected by the unjust and oppressive action of the accounting officers. I have been for years endeavoring to obtain a settlement of my accounts on a just and legal basis, incurring great personal expense, besides the annoyance and loss of time. I have no hesitation in saying that the action of the Treasury Department has not only been oppressive towards me, but also obstructive of public justice.

I would here refer you to my letters to your Department, dated March 17, 1874; April 18, 1874; September 25, 1876; May 22, 1877; June 8, 1877; April 9, 1880; June 29, 1880; December 15, 1880; May 30, 1880, and March 9, 1882; and to the following letters addressed to Mr. Brewster Cameron, the general agent, May 30, 1882, August 15, 1882, and November 14, 1882. I would invite your attention to the letters written by your predecessor requesting the early settlement of my accounts.

As you have the originals of the above letters written by me, it is of course unnecessary to inclose copies.

This correspondence shows conclusively that I have persistently sought for an early adjustment of my accounts, and that the delay is not properly chargeable to me. I will treat this subject more fully when answering the report of the representative of the Treasury. I will only add that I can find no reason given in Mr. Forney's report for delaying the adjustment of some of my accounts nearly *two years after* they had been reported on by a special agent, especially as the Comptroller's statement of differences was but little more than a copy of the agent's report.

It moreover seems very unjust in the examiners to censure me for not paying my deputies in full, when they themselves in the same report, in effect, recommend the disallowance of a large part of the accounts rendered by those deputies. How the charges of a deputy can be fraudulent, and yet constitute a valid claim on me, is not sufficiently explained by the examiners. The proportion of accounts allowed by me to my deputies may not have given them sufficient compensation; but that proportion was well known to your Department, as will be shown by Circular No. 40.

The logic of a report seems questionable which complains that the compensation of a deputy is already too small to be consistent with his honesty, and then further reduces his compensation, presumably to make him honest. I herewith inclose my Circular No. 65. On and after the first of last January, the deputy will be paid the entire amount charged for actual expenses endeavoring to arrest allowed by the Comptroller in the adjustment of his accounts.

It should be borne in mind that a marshal's compensation is made up almost entirely from the share he retains of the fees of his deputies, and that from this source must also come all the expenses of his office, including clerk hire, office rent, and stationery. The regulations and customs of the Departments compel a marshal to perform by himself and clerk a great amount of labor for which he receives nothing.

The marshal must retain a sufficient amount at least to cover his expenses, and should be entitled to a reasonable compensation for the labor and pecuniary responsibility involved in the duties of his office. If his gross fees are too small to enable him to be liberal to his deputies as well as just to himself, the fault rests with the fee bill and the rulings of the Comptroller. If instead of useless criticisms of the past, the examiners had suggested some remedy for this defect in the future, it would have been better for all concerned.

In the words of one of the sages of the law, "Blessed be not the complaining tongue, but blessed be the amending hand." I would here renew my recommendation that marshals be paid by stated salaries, and that they have no interest whatever in the fees of their deputies.

I must enter my earnest protest against the remarkable principle laid down by the examiners, that it is fair to presume the guilt of a man who has never even been charged with crime.

The system of accepting the drafts of my deputies, payable when I received funds to their use, arose during the fiscal year 1880, when no appropriation had been made for the fees and expenses of marshals. Had it not been for some such arrangement the deputies could not have served the processes placed in their hands, and I have no hesitation in saying that the administration of justice in this district is largely indebted to Mr. Sluder. He bought these drafts in the open market, taking the entire risk of their ultimate payment, as the large majority of my deputies are not worth the exemptions allowed by law. It was then intended that these drafts should be paid out of the first funds coming into my hands to the use of the maker, I only stipulating that I should, on the ground of public policy, have the right to make such advances as might be required to protect the interest of the Government in the service of process. As I have received but little more than half the amount really due me for fees during the fiscal year 1880, I could not pay all the outstanding drafts.

These remaining drafts would under the original understanding have become a lien on the funds received to the use of the makers during the ensuing fiscal year, subject, of course, to the original restriction. This was my first view of the matter, which has since become greatly changed, especially since seeing the opinion of Secretary Folger.

I now doubt whether an officer can assign that in which he has no present interest; that is, his prospective compensation for services not yet rendered.

My refusal to pay my deputies was attributed to the want of available funds; that is, funds coming to their use. I am glad that the examiners "failed to procure" any evidence that I was interested in Mr. Sluder's purchase of these drafts, as such evidence would necessarily have been purely fictitious.

The so-called impression that I favored Mr. Sluder is not shared by Mr. Sluder himself.

As far as the supposititious case in which B and C are made to suffer for the escape of A, I can only say that such charges would be unjust to B and C, but would in no way affect the liability of the Government.

The deputy is entitled to his actual expenses, not to exceed two dollars per day, endeavoring to arrest any one; and it makes no difference to the Government who the person may be, provided he is charged with crime.

The mere fact that a deputy is endeavoring to arrest more than one person on the same day does not lessen his right to his expenses.

The impression which the examiners state was prevalent among the deputies, that it was necessary to resort to deceit to obtain their just dues, speaks badly for the reputation of the Treasury Department. The information of the examiners as to the payment of the two dollars per day is grossly inaccurate, especially as their fellow examiner, representing the Treasury, recommended that *all* actual expenses endeavoring to arrest when no arrest was made should be disallowed.

In the logic of the report, Does not this offer a strong inducement to the deputy to charge his expenses on the parties who are caught? As to the employment of guards but little can be said, as Judge Dick's ruling undoubtedly lays down the law correctly. The guard must necessarily attend; but as to that necessity the deputy must determine. If you take this discretion from the deputy, you cannot hold him responsible for the safe-keeping of the prisoner. The matter of supplemental emolument returns has been fully explained in my answers to the examiners. I have always objected to rendering my returns until my accounts were adjusted, as will be shown by my letters; but your Department, while admitting that nothing could be done with them until the accounts therein embraced were settled, generally insisted upon their prompt rendition. On one occasion, however, the officer in your Depart-

ment having charge of them returned them to my attorney, Mr. Falls, on the ground that he could not adjust them until vouchers were furnished, which, of course, could not be done until the accounts were settled and paid.

In rendering an emolument return I have invariably included everything of which I had any knowledge at the time. You will notice that in nearly all, if not all, of my emolument returns I have added some interlineation to the affidavit restricting it to my knowledge at the time. Having complied with the wording of the law and regulations, I did not feel called upon to render a supplemental return until my accounts were adjusted. The law never intended the emolument return to be rendered until the marshal's fees had been settled and paid to him, as the statute says, that no marshal shall be allowed to "retain" of the "fees and emoluments," &c (See section 841.) A marshal cannot retain that which he has never received. Section 844, Revised Statutes, requires that "Every marshal * * * shall, at the time of making his half-yearly return to the Attorney-General * * * pay into the Treasury, or deposit to the credit of the Treasury," &c., any "surplus of fees" shown to exist.

The law certainly never intended to force a marshal to account for fees or pay money which the Treasury Department had not paid him and never intended to pay him.

The examiners greatly err in stating that in the emolument returns rendered by me for the calendar year 1881 I take credit for \$1,200 as having been paid to Mr. J. B. Gretter for clerk hire. Mr. Gretter's name is not mentioned in those returns as a clerk. I simply claim the allowance of \$3,000 already made to me by the Attorney-General for clerk hire, without rendering any vouchers or stating even to whom it was due.

I fully explained to the examiners the condition of Mr. Gretter's account and the efforts I had made to obtain a settlement from him. Your attention is invited to the copies of our correspondence herewith inclosed showing that Mr. Gretter was considerably overpaid. Mr. Gretter's death has made me unwilling to reflect upon his memory in any manner not absolutely demanded for my own protection.

The failure to include all fees earned from individuals arose from the fact that such had not been reported to this office at the time the emolument returns were rendered, and hence were not within my knowledge. I am perfectly willing to account for these, and all other fees, which are finally allowed.

I retained deputy marshal Watson because I believed him to be innocent of any criminal conduct, and that his prosecution was commenced as an attack on me, and not in the interest of justice.

Your attention is invited to my letters to your predecessor on the subject of the loss of the whisky. The cases of Haynie and Kilpatrick are now before the court. My connection with those cases is perhaps sufficiently explained in my written replies above referred to. It would have appeared superserviceable to have notified the Department of Justice or of the Treasury to hold up these accounts when each of them had then more evidence than has ever come into my possession. I promptly struck out of the accounts all charges which then appeared incorrect. I regret to say that the interviews referred to between Col. Lusk and myself were more in the nature of altercations. A calmer and more dispassionate discussion of the subject would, perhaps, have led to different results. That Col. Lusk does not now attach any blame to me for my conduct is shown by his recent letter recommending me for reappointment, in which, speaking of me, he says: "He is a sterling Republican, an honest man, and a faithful officer."

I regret that the examiners should have seen fit to reflect upon my motives in so harsh and unjustifiable a manner; but I trust that my own emphatic denial will be deemed sufficient, especially in the absence of any proof to the contrary. I will admit that several investigations have been made in this district resulting in unfavorable reports; but I may be pardoned for saying that I am induced, perhaps by my prejudices, to believe that the accounts of my deputies will bear favorable comparison with the reports of the examining agents.

In conclusion, I may add that certain evidence, seemingly material, but necessarily ex parte, has been omitted in accordance with a suggestion from your Department.

Trusting that this answer may be entirely satisfactory, I remain, sir,

Very respectfully,

RO. M. DOUGLAS,
United States Marshal.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General, Washington, D. C.

Mr. Douglas to Attorney-General Brewster.

GREENSBOROUGH, N. C., February 15, 1883.

SIR: In answering the report of Mr. P. W. Forney, an acting examiner of the Department of Justice, dated October 14, 1882, I shall be as brief as possible.

In view of the bad personal feeling existing between Mr. Forney and myself, which was known in your Department as well as in that of the Treasury, I regret that he should have been selected as one of the examiners in this investigation. I have, however, endeavored not to permit our personal relations to influence me in answering his report; but I must insist that all of his allegations must be considered only so far as they rest upon proof or are admitted facts. As Haynie and Kilpatrick have been indicted, it seems proper that I should say but little, especially as false and malicious reports have been circulated by some one that I am trying to shield these deputies from the legal consequences of their acts. Yet some of the allegations of the report vary so far from the evidence that I must call them to your attention.

Mr. Forney says that, "In *every instance* where the defendants were interviewed, they made affidavits that they * * * were not away from home the extra days charged to arrest them." An examination of the affidavits filed by Mr. Bowman will show that such is not the case.

Many of the affidavits make no allusion to the days charged for endeavoring to arrest, while in one, the affiant (Henry Frisby) states distinctly that he "kept out of the way of the deputy." Many others could have been found to swear to the same thing, but such testimony was evidently not desired by the examiners. I would here call your attention to the indorsement on the affidavit of W. A. Melton, which is as follows: "Melton does not desire to go to Asheville as a witness. I do not think *he would make a good witness*. J. W. B." In the report occurs the following passage, "The legal fees in these cases are about as follows:

"Serving warrant	\$2 00
"Mileage to serve, 30 miles at 6 cents	1 80
"One day endeavoring to arrest	2 00
"Attendance before Commissioner	2 00
"Releasing defendant	50
"Total	8 30

"This compensation is based on the services *actually and necessarily* performed, as required by the *express language and intention* of the *fee bill*."

It does seem strange that an examiner of the Department of Justice should be guilty of the gross injustice of recommending the total disallowance of certain fees which he says are *legal* and charged for services *actually and necessarily* performed. Such disallowance must be considered either as a refusal to pay the just dues of an officer, or as a punishment of an offense for which he has not yet been tried. In either view, such action is violative of every principle of justice, and subversive of the most sacred rights of the citizen. The statement to the effect that *all* the items stricken out by me were objected to by the defendants is untrue. As the duplicates of these accounts have been taken out of the district, contrary to the express directions of the judge, and in violation of the promise of one of the examiners, I cannot now tell in what particular cases the items were stricken out by me. The statement of Colonel Lusk is alluded to in my answer to the report of Messrs. Bowman and Wiegand.

Mr. Forney speaks of the dissatisfaction of the Treasury Department with my accounts. I was not ignorant of this fact, nor of the "radical change" which some of the accounting officers have been so long endeavoring to force upon your Department. "Expenses to arrest in cases wherein no arrests are made." The law as laid down by the examiner with regard to these items appears to be correct. If his premises were equally so, his conclusions would be undeniable; but as his allegations are lacking in the essential element of truth, his disallowances are equally devoid of justice. I do *not* regard the \$2 as a fee, nor do my deputies.

In reading the affidavits given by the deputies to the examiners, I do not recall a single deputy who admitted that he considered this charge simply as a fee. On the contrary, nearly all of them state in substance that their actual *expenditures, excluding* the use of their own horses would average \$2 per day. Of course a reasonable allowance for the use of their own horses would increase this amount at least 50 per cent. These affidavits having been taken by the examiners themselves, and transmitted to you in proof of their report, cannot now be questioned by them.

In this connection I would invite your attention to the bills rendered by the examiners for expenses incurred during this investigation. I am informed that the sum of \$4 per day was allowed to each of the examiners for subsistence alone, exclusive of all other expenses. Traveling in the same section, by easy stages on public roads, their expenses should not have exceeded, if they equaled, the expenses of a deputy marshal in the service of process. As to the approval of the commissioners, I cannot say whether they actually signed the taxation on the warrant, but this they were not required to do. When a deputy marshal taxes his fees in the presence of the commissioner without objection, it becomes a taxation by the commissioner, especially so if the commissioner reports the gross fees so taxed to the court. The Comptroller, in his letter of August 3, 1881, especially referring to such charges, says: "Where there is a

taxation of costs by the commissioner, it will be taken as *prima facie* evidence that it is correct." The statement of the examiner that my portion of the disallowances "is HARDLY in excess of the *excess*" of my maximum compensation (which, in fact, is an admission that it is in excess), becomes significant. If in the emolument returns already rendered I have charged myself with an amount greater than the accounting officers now find due me, why should I be compelled to charge myself with additional amounts which they never intend to pay?

I would here refer you to my answer to report of Messrs. Bowman and Wiegand: The statement that I was unable to produce any receipts whatever is incorrect; I have a great many receipts as well as drafts and other evidence of payment. It was impracticable for me to take receipts in the prescribed form until the vouchers of the deputy were settled, as I did not know what amounts would be allowed in each half year. In consequence of heavy disallowances, I find that several of my deputies are already over-paid.

I have not answered this report as fully as I would otherwise have done, for the reason that so much has been substantially answered in my reply to the report of Messrs. Bowman and Wiegand, to which you are respectfully referred.

I remain, sir,

Very respectfully,
(Signed)

RO. M. DOUGLAS,
United States Marshal.

HON. BENJAMIN HARRIS BREWSTER,
Attorney-General.

P. S.—Since coming to Washington, I have been informed that the duplicates of the accounts of Deputies Haynie and Kilpatrick have been returned to the clerk by your Department, a fact of which I had no previous knowledge.

Very respectfully,

RO. M. DOUGLAS,
United States Marshal.

FEBRUARY 19, 1883.

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TESTIMONY

RELATING TO

EXPENDITURES

IN THE

DEPARTMENT OF JUSTICE.

THE STAR-ROUTE CASES.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1884.

TESTIMONY RELATING TO THE STAR-ROUTE CASES.

WASHINGTON, *March 5, 1884.*

THOMAS L. JAMES sworn and examined.

By the CHAIRMAN:

Question. Please state your residence.—Answer. I reside in the city of New York.

Q. At what time were you in the public service of the United States as a member of the Cabinet?—A. From the 7th of March, 1881, to the 4th of January, 1882.

Q. In what capacity?—A. As Postmaster-General.

Q. Please state to the committee all matters that came within your own knowledge during that time in reference to frauds upon the Treasury, growing out of the star route mail service, and the efforts of the Government to prosecute persons who were supposed to be guilty of those frauds.—A. With your permission, I will read a statement that I have prepared.

[Reading.]

In common with most citizens who took a lively interest in public affairs, I had read the comments of the daily papers on the alleged "star route" irregularities; had watched the developments of the Congressional investigations of 1878, 1879, and 1880, and had discussed the subject with various postal officials, but my attention was first specifically called to the matter by ex-United States Senator George E. Spencer, of Alabama, and other well-informed gentlemen. It was their belief that millions of dollars had been wasted on unnecessary "star" service—service much of which had never been performed and which was procured by improper means. It was also maintained that an honest, thorough investigation would render practicable retrenchments without detriment to the service, which would not only make the Post-Office Department self-sustaining, but would yield a respectable revenue to the Treasury.

That I entertained such views was more or less well known. The publicity given to them, added to the fact that, while postmaster of New York, when asked by Stephen W. Dorsey to certify, in my official capacity, to a large number of papers connected with the contract office of the Post-Office Department, I refused to do so, may account for the bitter opposition to my appointment to a Cabinet position which developed in certain quarters.

I went to Washington on the night of the 2d of March, in answer to a telegraphic dispatch from Mr. Whitelaw Reid, which I understood to represent General Garfield's desire. On the 3d I called on him at the Riggs House, in company with Mr. Reid, between 9 and 10 a. m. After shaking hands, and talking for a moment, Mr. Reid said in substance, addressing General Garfield, that he had asked me to come on as he

(General Garfield) had desired ; and had told me it was in reference to some suggestion of my name for Postmaster-General ; that I had said that if the Treasury Department was likely to come to New York I did not want to be in the way, and that he (Reid) had assured me that was now settled. General Garfield, addressing me, said : "That is absolutely settled ; the Treasury Department cannot go to New York." Mr. Reid, continuing, said he had told me that General Garfield expected to get on satisfactorily and without friction with both the factions in New York, and hoped my appointment, if made, would help to that end, but wished to know whether, in case controversies should be forced upon him, he could be sure, if I were made Postmaster-General, that my political affiliations in New York would not interfere with my hearty support of his administration. General Garfield said, "Yes ; that is about it ;" and I then replied, "Such a contingency, in my judgment, will not arise, but if it should, if I accept your nomination, I must, as a gentleman, either be loyal to the President or resign." General Garfield said, "That is satisfactory," and the conversation then turned to the work of the Post-Office Department. I said that if I went into it I should like to carry out a plan I had already formed of going abroad to finish up a study of the London methods for city free-delivery service, and the General replied that he would arrange that. He then said that from what he kept hearing he was afraid there was something very wrong in the Department itself ; that if so, he expected me to find it out, and then put the plow in to the beam, and after that to subsoil it. He asked what I knew of the frauds. I replied that my knowledge was derived from the newspapers, from the investigations which had taken place, and from hearsay. The only persons present at the conversation were the President, Mr. Reid, and myself. I left for New York in the afternoon train with my friend, Charles E. Smith, of Philadelphia. Mr. Dorsey was not present at this interview, nor did I see him ; neither did I call on nor meet Senator Conkling or Vice-President Arthur.

On the 9th of March, after my appointment as Postmaster-General, the President sent for me and brought up the subject of the "star-route" service. He said he was satisfied that there had been willful waste of the public money and gross corruption ; that while he did not wish to have mail facilities necessary to the welfare of any community curtailed, all unnecessary and extravagant service must be relentlessly cut off ; that the service should be regulated and conducted with strict regard to actual public requirements, and not with a view to serving private interests ; that the proposed investigation must be aimed at a system, and not at men ; but that if the inquiry should disclose the fact that any person or persons had been guilty of corruption or fraud, that person or those persons must be handed over to the Department of Justice. He instructed me to pursue this investigation until there were no more facts to ascertain, and asked, "How do you propose to proceed?" I replied that, with his approval, I should telegraph P. H. Woodward, of Connecticut, formerly chief special agent of the Post-Office Department, and a man of character and integrity—who, while in the Department, had rendered great service to the Government in breaking up the practice of "straw bidding" in connection with star-route contracts—to come to Washington, and that I would place the investigation in his hands. The President said that this met with his entire approval.

On my way back to the Department, I met Senator Hawley and Governor Jewell, of Connecticut. At my request both these gentlemen telegraphed to Mr. Woodward to accept the position of inspector. In reply to my telegram, Mr. Woodward met me in New York on the 12th

of March, when I asked him to become my confidential agent in the investigation of the star-route frauds. He accepted, accompanied me to Washington, and was commissioned as an inspector on the 14th of March. I notified the President of Mr. Woodward's arrival. He said that he was much annoyed in regard to certain large post-offices in North Carolina, South Carolina, and Georgia; that he did not wish to make mistakes in appointments in this connection; that only men fit to be postmasters and those having the confidence of the people should be appointed, and that as Mr. Woodward had formerly lived in the South he thought it would be well to place all the applications for appointment in his hands and let him visit the cities in which these offices were located, inquire into the fitness and character of the applicants, and recommend the person best equipped for the place. These suggestions were carried out, and in consequence very little progress was made in the star-route investigations until the 1st of April. During Mr. Woodward's absence I visited New York, and was then informed by Mr. David F. Nelson, a clerk in the New York post-office, that Mr. John Swinton, one of the editors of the New York Sun, would, if so desired, place me in communication with a gentleman who would materially aid me in the impending investigation. I sent word to Mr. Swinton that he would confer a favor upon me by so doing. This resulted in Mr. A. M. Gibson, formerly connected with the New York Sun as its Washington correspondent, calling on me at the Department, making valuable suggestions, and placing in my hands evidence of great importance bearing upon star-route matters and methods.

With the imperfect instrumentalities at hand, and in the face of the most serious obstacles, a plan of operations was adopted, and the preliminary investigation was undertaken in earnest. All sources of information at command were made available. Steps were taken to authenticate specific cases of abuse, long-suppressed reports of inspectors on doubtful service were exhumed and consulted, and where the originals were not discoverable in the contract division of the Second Assistant Postmaster-General's office, copies were procured from those who made them, and inspection of the doubtful service by experienced and trustworthy agents of the Department was immediately ordered by telegraph. The state of affairs thus revealed was truly appalling. Affidavits of contractors, upon which increase of service and expedition were unhesitatingly ordered, were freely accepted when even the most superficial inquiry on the part of an inspector, procured at a small cost, would have saved untold thousands to the Department. Inspectors designed by law to jealously guard the interests of every branch of the service, and advise the Postmaster-General of any abuses or irregularities which might at any time or in any place fall under their notice, were peremptorily forbidden to trench upon the "star-route" domain by a power which appeared to be greater than that of the head of the Department, and whose unspoken word was obeyed as law.

This vast and important service, stretching for thousands of miles "east, west, north, and south," in regions of country infested by bands of hostile Indians or desperate outlaws, and often accessible only by "buck-board" or on horseback, was relegated to the care of one man, borne upon the rolls of the Department as an assistant superintendent of railway mail service, and who occupied a desk in the office of the Second Assistant Postmaster-General. Manifestly there was method in all this, the motive of which was not far to seek. Swift and sure came the conviction that the *personnel* of the Department, and of some branches of the service, was intensely hostile to the new order of things,

and must be purged. No sooner had this work begun than bitter and malignant attacks appeared in the columns of "star-route" organs on the President, the Attorney-General, the Postmaster-General, and whoever else was suspected of a disposition to promote clean, honest, and business-like methods. Swarms of contractors, their attorneys, and beneficiaries raised a deafening clamor, and made common cause against the Administration.

In the early part of April, fortified with facts and figures laboriously and carefully collated, Mr. Woodward and myself called on the President and exhibited a comparative statement of the most corruptly manipulated routes. He displayed great surprise, and wished to know if the figures had been verified by the records. He also added that he had been providentially saved from falling into a trap which had evidently been set for him, and seemed to be contemplating some peril which he had escaped. He asked whether the papers had been shown to the Attorney-General. I replied no, when he requested me to call with that official and Mr. Woodward the next day.

In conformity with his request we called the next afternoon and a lengthy consultation ensued. In answer to my suggestion as to whether it would not be wiser to institute civil suits for the recovery of the money obtained through dishonest contracts rather than to commence criminal proceedings against the implicated parties, he said "No." "One moment, Mr. President," said the Attorney-General; "consider whether or no the Postmaster-General is not right. Before a final decision remember that these proceedings may strike men in high places; that they may result in changing a Republican majority in the United States Senate into a Democratic majority; that it may affect persons who claim that you are under personal obligations to them for services rendered during the last campaign—and one person in particular who asserts that without his management you could not have been elected. Look these facts squarely in the face before taking a final stand, for neither the Postmaster-General nor myself will know friend or foe in this matter." The President walked across the room, reflected a moment, and said, "No; I have sworn to execute the laws. Go ahead regardless of where or whom you hit. I direct you both not only to probe this ulcer to the bottom, but to cut it out." This closed the conversation. Shortly after the conference above referred to, ex-Senator Dorsey called on me at the Arlington Hotel, and, in the presence of Mr. Woodward, denounced Mr. Brady, the Second Assistant Postmaster-General, with great bitterness, and urged that he be immediately removed.

On the 19th of April, Inspector Woodward addressed me a communication strongly urging that the interests of the pending investigation and of the Department demanded the retirement of Thomas J. Brady from the office of Second Assistant Postmaster-General. The same evening Woodward and myself called upon the President, to whom I referred the letter. He at once directed Brady's dismissal. I explained to the President that Brady had previously told me that whenever his place was wanted his resignation was at the President's disposal; that my relations with the Second Assistant Postmaster-General, official and otherwise, had always been of a friendly character; that this was a most painful duty, and that I hoped he would allow me to ask for his resignation. He declined, and directed a letter prepared, which I signed, asking the President for Mr. Brady's instant removal. Early the next morning the President sent for me and said he had reflected on what I had urged, and, realizing my embarrassment, was willing I

should ask for Brady's resignation. I accordingly gave to the Second Assistant Postmaster-General the following letter:

April 29, 1881.

SIR: I am directed by the President to request your resignation of the office of Second Assistant Postmaster-General, to take effect immediately.

Very respectfully,

THOMAS L. JAMES,
Postmaster-General.

Hon. THOS. J. BRADY,
Second Assistant Postmaster-General, Washington, D. C.

Mr. Brady at once resigned. The position was subsequently filled by the appointment of Richard A. Elmer, of New York. About this time Mr. Woodward recommended that Mr. Gibson, on account of his knowledge of the star route cases and the immediate service he could render, should be retained by the Attorney-General. This was done. On the earnest appeal of Mr. Gibson, William A. Cook, esq., a member of the Washington bar, who had had large experience in criminal trials, was also retained. I was credibly informed that Mr. Cook had been tendered a large fee by the defense, but had declined. Simultaneously with the consideration of the star service, much attention was given to the steamboat service. A commission, consisting of B. K. Sharretts, one of the oldest and most successful of the inspectors; R. C. Jackson, division superintendent of railway mail service, and Henry R. Gibson, inspector, was sent to Memphis to investigate the river service converging at that point. Still another commission, consisting of John Jameson, assistant superintendent of railway mail service; Timothy Griffith, inspector, and L. M. Terrell, division superintendent railway mail service, proceeded to New Orleans for a similar purpose. The services rendered by these gentlemen were of positive advantage to the Department.

In order that the work of cutting down unnecessary and extravagant service might be intelligently performed, and that a full and true understanding of the facts might be arrived at, a number of the oldest and most experienced inspectors were called to Washington for consultation. Several of the alleged fraudulent contracts were assigned, and they were ordered to make a thorough examination of each and to report exactly what they found. The Attorney-General, who was present, added that "an inspector generally brought back what he was sent to get, but that in this case they were sent for no such purpose; that both the Postmaster-General and himself would prefer that the service be found necessary and the charges of corruption unfounded; but what was most wanted were the facts just as they existed." The inspectors left that night, and renewed the labors already well begun on many of the routes in question.

The outcome is well known. Large and expensive increases were found to be unnecessary, and the methods by which they were worked up fraudulent. Many of the affidavits upon which enormous expeditions were based were shown to be rank perjuries. The "cases" of particular routes, as fast as made up, were submitted to me, and the service was in most cases ordered to be cut down. The aggregate reductions made in star service from March to June 30, 1881, were \$655,832; in the steamboat service for same time, \$289,009.

From the moment the table of the famous 93 star routes was given out, through the medium of the Associated Press, and the public, more fully informed by the startling array of supplemental facts and figures, began to realize the enormity of the offenses committed, Mr. Dorsey began to actively engage in efforts to shield himself, to bring the inves-

tigation to naught, to disturb the relations of the President with his Cabinet, and to convince the country that "persecution" was the primary motive of the Department and the Administration. The most brazen effrontery and reckless prevarication were freely indulged in, despite the most direct and convincing documentary and oral evidences which abounded on every hand.

In the early part of June ex-Senator Powell Clayton, of Arkansas, called on me at the Department and said that he had been visited by Montford C. Rerdell, clerk and superintendent of the Dorsey combination, who, he said, desired to make a "clean breast" of his relations to ex-Senator Dorsey and the star-route contracts. I suggested that the Attorney-General was the proper person for Mr. Rerdell to see, but was informed that Mr. Rerdell preferred to see me. As he did not wish to visit the Department, I was asked if he could call at the Arlington, to which I replied, "Yes, I will see him, in company with a third person." Mr. Clayton came to the Arlington with Rerdell that night about 8 o'clock. Mr. Woodward came in shortly afterward. In course of the conversation, Rerdell evidently went further than it was originally his purpose to go. Many of his statements were substantiated by papers then produced. The following is substantially the statement as Mr. Rerdell made it. He said that he had come to the conclusion to make a clean breast of his connection with star-route contracts; that he was secretary to Mr. Dorsey, of Arkansas, while Dorsey was Senator; that he prepared the proposals; that they were sent in bulk to the West, and after being partially filled up were brought back to be executed; that after the proposals were accepted he attended to getting up influence, petitions, &c., for expedition, and after the contracts were expedited he managed the business of the combination, which consisted of S. W. Dorsey, John W. Dorsey, Miner, Peck, and Boone, the last named being frozen out to make room for Vaile. He showed me transcripts of the books, and said that during the Congressional investigation he shammed sickness for fear of being summoned before the Congressional committee. During the time of this feigned sickness a book was copied from the original, with the exception that the money charged in that book to the fictitious names of Smith and Jones was there entered under the head of profit and loss. Smith represented Brady, and Jones Turner, of the Contract Office. Brady received 33 $\frac{1}{3}$ per cent. as his share of the expedition for one year, and 50 per cent. of the remissions of the fines and deductions.

The next day Rerdell called upon the Attorney-General and made a similar statement to him. A day or so thereafter I met Rerdell on the night train for New York. He told me he was going over for the ledger of the accounts, which would verify what he had alleged, and which was in Dorsey's office in the Boreel building. The next morning I was met at Jersey City by Postmaster Pearson, of New York, and Inspector Newcomb. I requested Newcomb to "shadow" Rerdell. I left New York on my return that afternoon by the 3.40 train. Rerdell came back in the same car with me. He said he had the ledger, and showed me a package wrapped up in a newspaper which contained it; that he had met Dorsey, and had been charged by him with treachery; that he advised him to become a witness for the Government, and that after a stormy scene he left. When we arrived at Trenton, the conductor came in with a couple of telegrams, which he handed to Rerdell. Shortly afterward Rerdell gave them to me. The first one was a request from Dorsey for him to leave the train at Philadelphia and return to New York; the next was a piteous appeal, on account of Dorsey's wife

and children, to come back—that they must not quarrel. These dispatches were either signed Dorsey or S. W. Dorsey. Rerdell added that he was not going back; he was ticketed through, and was going through. He came to Washington with me; as he said there was a member of the star-route combination watching him, our conversation was limited. The report of Inspector Newcomb confirmed Rerdell's statement as to the places he visited in New York.

A few days later on ex-Senator Spencer reported that about 1 p. m. of Sunday, the 12th of June, while he was conversing in his room at the Everett House, New York City, with the Hon. S. B. Elkins, of New Mexico, Stephen W. Dorsey came in unannounced; that he (Dorsey) was terribly demoralized, smoked incessantly, and drank deeply; that he said his clerk (Rerdell) had "squealed" and betrayed him, and had shown his papers to the Postmaster-General and the Attorney-General and others; that he begged them both to help him, and made the most abject apologies for harsh things said of them in the past.

According to Mr. Spencer, Dorsey called at the Everett House again on Thursday evening, the 16th of June, but was then in a state of great exhilaration, asserting that everything was all right after all. Subsequently he exhibited to Mr. Spencer a long affidavit of Rerdell's, in which he recanted the statement previously made to Mr. Dorsey, explained that James W. Bosler, of Pennsylvania, had been on to Washington, gotten hold of Rerdell, had sat up all night with him, and extorted from him the affidavit in question.

On the last Monday of June I returned with President Garfield from Elberon to Washington. In the car between Baltimore and Washington he showed me a copy of the National Republican containing a bitter personal attack on him. He asked why Messrs. Cook and Gibson had been so slow, and requested me to see the Attorney-General and call at the Executive Mansion with him that evening. On inquiry I found that that official was out of town, and so advised the President. On Wednesday he telegraphed me that if the Attorney-General was not in the city to bring up Mr. Cook. In the evening Mr. Cook, Mr. Woodward, and myself went to the White House. As we entered, the attendant said: "Go right upstairs to the Cabinet room; the President is there. As we started to go upstairs I asked: "Who is with him?" He replied: "Senator Dorsey and Colonel Ingersoll." We went into the Red Room, and I sent word to the President that we were there. He came in shortly, and I introduced Mr. Cook to the President. This was obviously the first time they had met. Colonel Cook explained what had been done by Mr. Gibson and himself. The President suggested that they were too slow; that they should be more earnest in their work, and that they should have the accused parties indicted and tried. Mr. Cook promised that no time should be lost. On rising to leave the room he said: Mr. President, you know I am a criminal lawyer, and that my associations are not always with angels. I hear a good deal about what is going on, and I feel that it is my duty to say, from knowledge which has come into my possession, that something dreadful is about to happen. I do not know what it is, but think I can learn during the coming week.

During June, July, and August picked inspectors continued their labors on the frontier. Early in August, from information of a creditable nature, I became satisfied that Thomas A. MacDevitt, of Philadelphia, if he would tell what he knew, might be made a valuable witness for the Government. I accordingly directed Inspector Woodward to go to Philadelphia and interview him. Mr. MacDevitt was not in the

city, but a week later he came to Washington and saw Mr. Woodward. I let it be known that wherever the ends of justice would be served by minor offenders telling the whole truth I would accept and act upon any recommendations which Mr. Woodward might make. I regarded it as important that the Government should enlist in its interest those of the lesser offenders whose services would be useful. MacDevitt's first statement was not satisfactory to the Attorney-General. A statement made a few days later was accepted. This evidence was regarded as valuable against the Salisbury combination.

Toward the close of August, at a meeting at the house of the Attorney-General, at which Messrs. Woodward, Cook, and Gibson were also present, the question of additional counsel was discussed. The Attorney-General said he had concluded to retain the Hon. Benjamin H. Brewster, and that he would retain any other person whom I would suggest. I asked that the Hon. George Bliss, ex-United States attorney for the southern district of New York, be retained. This was done.

The inspectors' reports on star routes were examined by Messrs. Woodward, Gibson, and Lyman as fast as they were received, and orders reducing the service were at once issued. The amount of the reductions by months was as follows: July, 1881, \$384,397; August, \$122,647; September, \$111,056; October, \$83,451; November, \$145,327; December, \$210,831.

The total amount of the reductions of star and steamboat service from March 1, 1881, to December 31, 1881, was \$2,004,550. My connection with the Department closed on the 5th of January, 1882. It is proper that I should bear witness to the fidelity, energy, and intelligence with which I was supported by Inspector Woodward, Chief Clerk Van Wormer, Chief Clerk Lyman, and by Second Assistant Postmaster-General Elmer. Without their earnest co-operation, this great work, which placed the Department on a paying basis and paved the way for cheaper postage, could not have been performed; and so thoroughly and justly was their labor done that this great reduction was accomplished with very little friction, most of the complaints reaching the Department being evidently manufactured in the interest of the contractors. It is, perhaps, not improper for me to add that Mr. Bliss's action seemed to me to fully vindicate my choice in his selection. What I have said about these gentlemen connected with the Post-Office Department I also say about Mr. Gibson. Without the matter that he furnished the Government the investigation would have been delayed two or three months.

In conclusion, I desire to say to the committee that I gladly avail myself of the opportunity afforded by their summons to present to them and to the public this statement of the essential facts of my connection with the star-route proceedings. I deem it due to the truth of history and a matter of justice to myself, and still more of justice to the memory of the late President Garfield. His conduct in the whole affair was honorable and courageous in a high degree, and was inspired by a lofty sense of the duties of his office. If he had taken a lower view of his obligations as Chief Magistrate and as an honest man, it is my firm belief that he would not have fallen a victim to the assassin's bullet.

Q. Have you a statement from any official report made to Congress, or to the President, of the action of the Department in reference to the 93 expedited routes to which you have referred in your testimony?—A. That may be found in the report of Mr. Gibson to the Attorney-General.

Q. You refer to the report made by Mr. A. M. Gibson to the Attorney-

General, dated October 31, 1881?—A. Yes, sir. That report contains the history of the famous 93 routes.

Q. That report was transmitted by you to Congress with your annual report in 1881?—A. Yes, sir.

(The report of Mr. Gibson above referred to accompanies the report of the Postmaster-General, dated ————, 1881. It begins on page 467 of the document, and, with accompanying exhibits, extends to page 651.)

Q. State whether that report contained the first official information transmitted by any executive officer of the Government to Congress in reference to the star-route frauds.—A. Yes, sir; during my administration as Postmaster-General.

Q. Well, it was the first during any administration, was it not?—A. Yes, sir.

Q. In the statement which you have just made here you have referred to a conversation in which you, the Attorney-General, and the President took part; did you state that in that conversation something was said by the President in regard to some one who had materially aided in his election?—A. The conversation, as nearly as I can recollect, was exactly as I have stated it here.

Q. To whom was reference had in that remark?—A. That you will have to ask the Attorney-General.

Q. It was the Attorney-General who made the remark?—A. Yes, sir; I have given the conversation as I remember it.

Q. I believe you have said that it was at your instance that Mr. William A. Cook was employed in connection with the star-route cases?—A. Not at my instance; at the instance of Mr. Gibson and Mr. Woodward. I did not employ Mr. Cook; he was employed by the Department of Justice.

Q. But you joined in Mr. Woodward's and Mr. Gibson's recommendation to the Attorney-General that Mr. Cook should be employed?—A. I did.

Q. What did Mr. Cook say to you, if anything, with regard to the fees which he had been offered by defendants in the star-route prosecutions?—A. I think that information came to me from Mr. Woodward or Mr. Gibson. I don't think that Mr. Cook said anything of that kind to me.

Q. I believe you have stated that the appointment of Mr. George Bliss, as an attorney for the Government, was made upon your recommendation?—A. Upon my sole recommendation.

Q. Please state to the committee your reasons for recommending that appointment?—A. Mr. Bliss and I had for many years been very intimate. I knew that he was a man of great legal learning and of wonderful detective ability; I knew that he had convicted the defendants in one conspiracy case, and I knew that he was very earnest and very devoted to his work, and I felt safer after Mr. Bliss was employed than I did before.

Q. Did you take any part in arranging as to the fees which he should be paid for his service?—A. Not the slightest.

Q. You had nothing to do with that?—A. I had nothing to do with that.

Q. Nor with arranging as to the length of time during which he should be employed?—A. No, sir.

Q. You simply recommended him as a suitable person to be employed in that business?—A. Yes, sir; I stated that I would be satisfied with

Mr. Bliss—not only satisfied, but gratified—if he should be retained to aid in the prosecutions.

Q. You spoke about commissioners having been appointed to visit Louisiana.—A. Yes, sir; to visit New Orleans and Memphis.

Q. State the reasons for the appointment of those commissioners and the object of their visit and their proceedings.—A. There was a great clamor in the Memphis papers regarding alleged unnecessary and wasteful service on the Mississippi and the rivers running into the Mississippi, and to ascertain whether those allegations were true or not, I sent out this commission, consisting of Mr. Sharretts, Mr. Jackson, and Mr. Henry R. Gibson. They devoted a great deal of time to the subject, and made an exhaustive report, which is in the files of the Post-Office Department, recommending that a great deal of the service be cut off, which was done. The same is true with regard to the service in Louisiana.

Q. Before you left the office of Postmaster-General, had inspectors been sent West for the purpose of investigating various star routes?—

A. Yes, sir; they were sent West in the latter part of April, I think.

Q. Who were appointed for that purpose?—A. They were the original Post-Office inspectors.

Q. Can you give their names?—A. Mr. John B. Furay, of Omaha, was one; Mr. Siebold; Mr. James E. Stewart, of Chicago, was another; Mr. Sharp, of San Francisco; and Mr. McCoy, and—I cannot remember them all, but there were several inspectors sent out on those star routes.

Q. Did they make reports to the Department before you left?—A. Yes, sir; it was upon their reports that this service was cut off. Their reports were submitted to Mr. Gibson and Mr. Woodward, who went over them carefully and then referred them to Mr. Lamb, the chief clerk, and the service was relentlessly cut off.

Q. When were those inspectors sent out?—A. I think it was in the latter part of April, 1881.

Q. When did they return?—A. Their reports were coming in all summer.

Q. How many routes did they examine?—A. I cannot tell you that; I don't know.

Q. Do you know whether those are the reports that have been recently transmitted to Congress by the present Postmaster-General?—

A. I don't know it, but I suppose they are.

Q. Did you make, or cause to be made, any investigation as to the amounts which would be due the Government for excessive payments to star-route contractors—amounts to be recovered in civil suits?—A. I don't think that that table was made up in my time as Postmaster-General. I remember writing to Mr. George Bliss and asking him if the time had not come to commence civil suits, and I remember that his reply was that he thought the time had nearly arrived, and that he would look into the matter. That, however, was some time in December.

Q. Was anything done so far as you know during the time you were in the office as Postmaster-General to institute civil proceedings against persons who were alleged to have received excessive payments from the Government as star-route contractors?—A. Nothing more than what I have stated.

Q. I believe you have said that you had no further official transactions in reference to the employment of the attorneys than what you have stated?—A. Nothing.

Q. That matter all rested with the Department of Justice?—A. It rested with the Department of Justice.

Q. You simply furnished the reports of the inspectors and such facts as you had been able to obtain through them for the information of the attorneys employed by the Government?—A. Yes, sir.

Q. Were you consulted from time to time with regard to the prosecution of offenders?—A. Do you mean by the Attorney-General?

—Q. Yes.—A. Yes, sir.

Q. Were the indictments found during your term of office?—A. The indictments, I think, were not found during my term; there was a proceeding instituted for an information; which failed.

By Mr. STEWART:

Q. Had the investigation of the facts been concluded at the time you left the office?—A. Not the investigation of all the facts.

Q. So that the preparation of the various cases was not fully matured at the time you left?—A. I cannot say about that.

Q. That belonged to the Department of Justice?—A. Yes, sir.

By Mr. HEMPHILL:

Q. Who was the inspector that you have spoken of in your statement who had the supervision of these star routes?—A. The assistant railway mail superintendent.

Q. In your statement you have said that all of these star routes were under the supervision of one man?—A. Yes, sir; Mr. Ray P. Eaton.

Q. What became of him?—A. I removed him.

Q. Do you know whether he is in the public service now or not?—A. He is collector of customs in Maine; so I have been informed since I have been here.

Q. What did you remove him for?—A. I removed him upon the report of Mr. Woodward, that his being in the Department would be a disadvantage to the Government—a disadvantage to the Department.

Q. Was there any proof showing that he (Mr. Eaton) had knowledge of these frauds?—A. That I cannot recollect. Mr. Woodward would be a better witness than I upon that subject.

Q. Was his removal in any way owing to difficulties growing out of these star-route prosecutions? You went out before the President was shot, I believe?—A. Oh, no; I went out in January, 1882.

By the CHAIRMAN:

Q. Do you know what the specific charges were, if any, against Mr. Eaton?—A. I cannot exactly recollect; it seems to me that Mr. Woodward told me that Mr. Eaton was at least negligent, if not worse.

Q. Did Mr. Woodward exhibit any proof to that effect?—A. There was so much that transpired during the ten months I was Postmaster-General that I would not undertake to be very definite on that point; I knew the general facts.

By Mr. STEWART:

Q. The official relation of this Mr. Eaton to the star route service had no reference whatever, had it, to the *establishing* of the routes or to the rates of compensation? His duty was merely to superintend the service as established by the Post-Office Department?—A. And, if any complaints were made, to report upon them.

Q. To report upon complaints made as to the inefficiency of the service as established by the Department?—A. Yes. Whether the ques-

tion of the necessity for the service was ever presented to him, I do not know.

Q. He was merely a subordinate executive officer, I suppose?—A. Yes.

By the CHAIRMAN:

Q. Look at the paper I now show you [Ex. Doc. 100, 48th Congress, 1st session], and state whether the reports there mentioned are the reports of the inspectors who were sent out by you as Postmaster-General.—A. [After inspecting the document.] Yes, sir; those are the reports.

By Mr. STEWART:

Q. Is not the result of these reports summarized in Mr. Gibson's report, which accompanied your report as Postmaster-General?—A. Partially, I think.

Q. Were these reports submitted after Mr. Gibson's report was made?—A. No; I think not. They were transmitted to Congress afterwards, of course.

The CHAIRMAN. I will state for the information of the committee that these are the reports transmitted by the present Postmaster-General to the House of Representatives in response to the resolution of the House which was adopted on the 20th of February, 1884.

By the CHAIRMAN:

Q. You may state generally, if you please, the nature of those reports to which I have called your attention.—A. They are reports on star-route service in the Territories and in the Western States, service which had been increased and expedited. The contracts had been referred to the inspectors for examination and these are their reports upon the necessity of the service, and upon the service as they found it.

Q. Upon the receipt of those reports what action did you as Postmaster-General take in reference to those star routes?—A. I referred the reports to Mr. Gibson and Mr. Woodward, and upon their report to me I ordered the increases and expedition to be cut off and the service restored to the original contracts. Mr. Woodward suggests to me that I did that all through the contract office, which is the fact.

Q. Then upon the receipt of these reports each of those routes was revised?—A. Yes, sir.

Q. And where the report showed that there had been expedition not justified by the facts as found by the inspectors and set forth in these reports, the expedition was set aside and the routes were set back to the original contracts?—A. Yes, sir; and the increases were cut off.

Q. What was your statement a while ago with regard to the general result; the aggregate result of such reductions?—A. It was a little over \$2,000,000.

Q. On those ninety-three routes?—A. No; the entire reduction in both steamboat and star service.

Q. Were you Postmaster-General when the deficiency bill was passed in the Forty-sixth Congress to cover this extraordinary mail service?—A. No, sir; I was not.

Q. You have spoken about an investigation that was made by a committee of Congress in reference to these star routes.—A. Yes, sir.

Q. You referred, I suppose, to the investigation made by the Committee on Appropriations in the Forty-sixth Congress?—A. Yes, sir; I think so. Governor Hawley was one of the members of that committee, was he not?

Q. Yes. Mr. Blackburn was chairman of the subcommittee of the Committee on Appropriations which made that investigation?—A. Yes; I remember that he was.

Q. That was one source from which you obtained information in regard to the excessive charges on those routes?—A. Yes, sir.

Q. Please state more particularly the conversation you had with ex-Senator George E. Spencer with regard to the star-route service.—A. I have stated substantially the conversation that I had with Mr. Spencer.

Q. You have mentioned two occasions when you had conversations with him. Were there more than two?—A. Oh, yes; I talked with Mr. Spencer oftener than that. He was very earnest in denouncing this service, very indeed. After I became Postmaster-General he came into the Department one day and desired to look at the papers on a route which he said he was absolutely familiar with—I think it was from Pioche to Eureka, but I may be wrong about that; I know he lived at Osceola. He said that the contract called for daily service, and that the service was really rendered only twice a week, I think. I sent to the contract office for the papers, and he looked them over, and he satisfied me that the service called for was daily service. My impression is that we telegraphed for an inspector to go over that route, and that he found the service to be exactly as Mr. Spencer had stated, and the contract was abrogated, I think, at once.

Q. Did Mr. Spencer give you the source of his information with regard to this fraudulent mail service?—A. The source of his information in that case was himself; he had the information. He lived at Osceola, in Nevada.

Q. And he was personally cognizant of many of the facts about that route?—A. Yes, sir; he had personal knowledge of the service.

Q. Will you please state again the substance of the conversation which took place between you and him when he referred to the visit that Mr. Dorsey had made to him?—A. I prefer to read it as I have already stated it.

Q. You have given it in your written statement and I remember what you stated there. Is that all that occurred between you at that time?—A. Yes, sir; that is all that occurred.

Q. Did he state what Mr. Dorsey had told him with regard to his connections with the star-route frauds or cases?—A. I say here [reading]—A few days later ex-Senator Spencer reported that about 1 p. m. of Sunday the 12th of June, while he was conversing in his room at the Everett House, New York City, with the Hon. S. B. Elkins, of New Mexico, Stephen W. Dorsey, came in unannounced; that he (Dorsey) was terribly demoralized, smoked incessantly, and drank deeply; that he said his clerk (Rerdell) had “squealed” and betrayed him, and had shown his papers to the Postmaster-General and the Attorney-General and others; that he begged them both to help him, and made the most abject apologies for harsh things said of them in the past.

Q. Did he state what Mr. Dorsey said had been “given away” by his clerk; did Mr. Dorsey make any confession at all in regard to the matter?—A. I cannot say about that.

Q. You did not ask him, then, what Dorsey had said about that?—A. No; I don't remember that. As I said before, there was so much that transpired within a short period, that I cannot be very positive about many of the details.

Q. Did Mr. Spencer proceed to relate the matter in detail?—A. He merely came in and said that Mr. Dorsey had been to see him and had said so and so, as I have already stated it here.

Q. Did he say to you at any time anything in reference to his having witnessed the payment of money by Mr. Dorsey to Mr. Brady?—A. Yes, sir; he said that he was present in Mr. Dorsey's room—that was before my incumbency as Postmaster-General—and that card was sent up, and Mr. Dorsey said that he wanted him (Spencer) to see the way that he did business, and he took some money out of his pocket and put it in an envelope, and when the party came up Mr. Dorsey handed him the envelope, which he took and put in his pocket and went away.

Q. Where was it that Mr. Spencer stated this to you?—A. He told me that in New York; he told it here, too, for that matter.

Q. Whom do you say Spencer said Dorsey paid that money to?—A. Mr. Brady.

Q. How much was it?—A. My impression is that it was \$5,000 or \$6,000.

Q. Mr. Spencer said that Mr. Dorsey told him that he would show him how he did business?—A. Yes.

Q. And he placed \$5,000 or \$6,000 in an envelope and put it on his table?—A. Yes.

Q. And after a while Mr. Brady came in and Mr. Dorsey handed him the envelope, and he put it in his pocket and went away?—A. Yes, sir.

Q. That is the substance of the statement of ex-Senator Spencer to you?—A. Yes, sir. I wish to add that the information that Senator Spencer gave me about these star-route matters was most valuable.

Q. Did you find his statements to be pretty true with regard to these matters?—A. Always correct, as far as I can recollect.

Q. Have you had any conversation with Mr. Spencer since with regard to this matter?—A. Since the trial?

Q. Since the first time he mentioned it, or since the last time to which you have referred here?—A. Yes; I have had conversations with him. I don't know that that case has come up, though.

Q. What I desire to know is, whether, in any subsequent statement made to you by Mr. Spencer, he modified the first one which you have stated here?—A. No, sir.

Q. Did he say where this circumstance took place?—A. I don't remember whether he said it was at a hotel in Washington or in New York; but it was one or the other.

By Mr. STEWART:

Q. Why do you state, as you do, generally, in the statement you have made here, your belief or impression that the assassination of President Garfield was in consequence of this star-route business?—A. I did not say that, governor.

Q. Won't you please read again what you did say about that at the conclusion of your prepared statement?—A. [Reading] "His conduct in the whole affair was honorable and courageous in a high degree, and was inspired by a lofty sense of the duties of his office. If he had taken a lower view of his obligations as Chief Magistrate and as an honest man, it is my firm belief that he would not have fallen a victim to the assassin's bullet."

Q. Well, I think that language conveys the impression, or would convey the impression, to the public (and this will be made public), that in some way the act of the assassin was directly a consequence of the President's action with reference to the star-route prosecutions. Now, if you do not mean that, I wish you would explain it, because that is the impression I got when you read it.—A. I mean just this: Taking the warning given by Colonel Cook, and the clamor raised by these

people at this investigation, together with the fact of the newspaper clippings that were found in the pockets of the assassin, I think that his head was turned by these assaults upon the President.

Q. Not that he was instigated by anybody connected with the star-routes?—A. I have no right to say that, because I do not know it.

Mr. STEWART. I think it is well that your explanation on that point should be explicit.

By the CHAIRMAN :

Q. Were the clippings to which you have referred from the Washington Republican the same articles which you read with President Garfield on the train? Were those the clippings that were found upon Guiteau?—A. I am not sure whether that article was the one found upon Guiteau.

Q. But there were some articles found upon him which commented severely upon the President's administration?—A. Yes, sir.

Q. How many days before President Garfield was shot was it that Mr. Cook made this statement to him which you have told us about?—A. I think it was the Wednesday night before.

Q. What day of the week was the 2d of July, the day on which the President was shot?—A. Saturday.

By Mr. HEMPHILL :

Q. Can you state whether the clippings found in the pocket of Guiteau had relation to the President's action with reference to star-route matters, or to his administration generally?—A. I am not certain about that; I think to both; but I won't say that, because I am not certain. I withdraw that.

Q. But they contained severe reflections upon his administration of the office of President?—A. Yes, sir.

By the CHAIRMAN :

Q. Was there any effort made, while you were Postmaster-General, to bring about a compromise of the civil suits with these defendants by their paying any sum of money?—A. I do not recollect any such effort.

Q. You have spoken about President Garfield's co-operation in the matter. Did you have any conversation with him with regard to any prosecution of Mr. Dorsey particularly?—A. No more than of any of the other defendants.

Q. I believe you have said that Mr. Dorsey remonstrated with the President with regard to the treatment he was receiving?—A. Yes, sir.

Mr. STEWART. You did not say that.

The WITNESS. Well, I say it now. I said that Mr. Dorsey attempted to raise trouble between the President and his Cabinet.

The CHAIRMAN. That was your statement, and I supposed you meant that the attempt was made on account of these prosecutions. Can you explain in what way the effort was made?—A. He took this Rerdell's affidavit, this recantation, to the President and demanded the removal of the Attorney-General and myself on the ground that we were attempting to suborn a witness.

By Mr. STEWART :

Q. Was that at the time of this visit by Mr. Ingersoll to which you have referred?—A. Yes, sir.

Q. Did you have any interview with Mr. Dorsey during the progress of the investigation?—A. Yes, sir.

By the CHAIRMAN:

Q. I think it would be well for you to explain in further detail, if you can, the efforts made by Mr. Dorsey to thwart the investigation.—A. Yes, and that will answer in full Governor Stewart's question, too. Mr. Dorsey wrote me an open letter demanding a separate investigation—that we should lay aside everything else in the Department, I suppose, to give him a separate investigation. He came to the Department in company with his counsel.

Q. In what manner did he desire that investigation; by the criminal prosecution?—A. No; simply an investigation through the Department.

Mr. STEWART. That is a matter of public history?

The WITNESS. Yes, sir; that is history. He came with his counsel, and they accidentally met the Attorney-General there with me, and, after listening to Mr. Dorsey, the Attorney-General advised me to treat him as everybody else was treated—not to give any one a separate investigation; he said that the ends of justice would not be attained by doing that, displaying all the papers in one case and giving everything away; and we declined to do it.

Mr. STEWART. The Attorney-General was right.

The WITNESS. Of course he was right; he always is right.

By Mr. FYAN:

Q. At the close of your prepared statement, you connected the death of President Garfield with the star-route cases, as I understood.

The WITNESS. No; I have explained that.

WASHINGTON, D. C., *March 5, 1884.*

WAYNE MACVEAGH sworn and examined.

By the CHAIRMAN:

Question. Please state your residence and occupation.—Answer. I reside in Philadelphia, Pa.; I am a lawyer by profession.

Q. When were you appointed Attorney-General of the United States, and when did you cease to fill that office?—A. I was nominated by President Garfield, as Attorney-General, to the Senate on the 5th of March, 1881, I think, the day after the inauguration, but did not come to Washington until after I was confirmed, and my recollection would be that a Sunday intervened; that the Cabinet was confirmed on a Saturday and that I came here on Monday morning early, which probably would be the 7th or 8th of March, 1881. I really do not remember when I took the oath of office as Attorney-General. I left the office on the 14th of November, 1881.

Q. Please state and explain in your own way your action while you were Attorney-General in reference to the prosecution of offenders against the law in connection with the mail service.—A. Well, I would hardly know whether in what I would say upon that subject I would meet the views of the committee—that is, give them the information they desire. I would be very glad to put them in possession of any information I have upon the subject from the beginning to the end, but, considering the lapse of time and my constant engagements since in other matters, I am not sure that I could recall, perhaps, even the most important matters. I have no statement of any kind to offer to the committee, because I have no wish to give them any information except

that which they really desire. If you think I had better begin now and state according to my present recollection just what occurred about the star-route matter, I will do that, if the committee will, by their questions, subsequently, fill in any gaps that may appear in my statement; because I really supposed I would be questioned and would have to answer questions.

The CHAIRMAN. We would prefer that you should first make your own statement as far as you can in relation to those cases, and then questions may be suggested on particular points.

The WITNESS. My recollection now is that I knew nothing whatever about the matter until the President himself one day, not long after I had come here, mentioned the subject to me, and said that while it would be a matter mainly in the Post-Office Department and with which, certainly, at that stage of it, I would have properly nothing to do, he would himself feel more satisfied if I would allow him to send the Postmaster-General to me, with the statement that I would cheerfully listen to anything he had to say about it, and advise with him from time to time as he went on with the investigation into these supposed irregularities or frauds. Of course, I assented to that, as to any other proper request that the President would make of me, and, in accordance with it, the Postmaster-General called upon me, as I now remember; but I ought to say that I kept no memoranda whatever, but transacted this as a part of the current business of my office, and that, therefore, I may be mistaken as to details in any particular matter, and of course may possibly be mistaken as to essentials. But, if that was the order, as I think it was, then the Postmaster-General called upon me at my department, and I went over with him to see the President, and the President there repeated substantially what he had said before, that this was a matter which needed immediate looking into, and as it involved irregularities amounting to very gross frauds, if they existed at all, he would feel better satisfied if I was in a position to give constant heed to the Postmaster-General and to give him advice as he needed it. I then said, either to the President or to the Postmaster-General, that we must first find what the facts were in some intelligible form, and I was very soon thereafter confronted with a tabular statement of what has since been known as the "93 routes," to which allusion has been made in the examination this morning. I had been familiar with the general system of laws passed by Congress and with the multiplied safeguards (as I had had occasion more than once in my profession to examine them) thrown around the lettings of mail contracts by Congress in the way of securing competition by advertisement, and I was familiar with the decision of the Supreme Court of the United States in which those safeguards had been commended as intended to prevent fraud and favoritism and undue waste of the public moneys. Therefore, when the facts appeared to me in this sufficient number of cases to show the system pursued in evading those laws, I was measurably satisfied, of course, that certainly very great wrong had been done to the public treasury. I remember very early seeing one case which was perhaps a fair sample, and which had a very considerable influence on my mind, because I found it multiplied in a number of other cases, substantially. I asked that the papers in some typical case should be laid before me, that I might take them home and carefully look into them. A case was brought to me by the Postmaster General, or by his authority, and the entire bundle of papers confided to me, and I took them home. It was a route out in the Territory of Arizona and in Nevada, running from one into the other, I think; at all events, it was certainly in the extreme un-

settled portion of the Government territory. I found that theretofore the entire route had been traversed one way, say from one Monday morning to the next Monday morning (if I am right as to details), and then traversed back over the same line the following week ; that the contract had been let, in the previous contract term, to a resident upon the route, for which he had been receiving about \$6,000. On satisfying myself of that, and that up to that time no demand, so far as I could see, had been made for any change, or even any suggestion of a change, I then looked at the advertising for the lettings of that route in the contract term under examination, and I found that the service had been changed and the time shortened. I found, also, that the successful bidder was not a resident of the western country, as theretofore, but was Mr. John W. Dorsey, who gave his residence as at Middlebury, Vt. While that in itself was not very important, it was suggestive to my mind, and I found that this man coming from Vermont had undertaken to do the service for one-half what the man had been paid for doing it who lived in the Territory. Then I looked at the bonds, and I found names of which I had some public knowledge, and which did not tend to dissipate the impression which the remoteness of the residence of the contractor from the route had made upon me. However, I found that the contract had been awarded to him as the lowest bidder, in accordance with the act of Congress, and that, apparently, the Government was saving \$3,000 per annum, in round figures, by giving it to him rather than to the resident bidder. I then found that Mr. Dorsey did not himself propose to perform this work, but had immediately transferred it to a man, who has been mentioned here by Mr. James, named Rerdell. I further ascertained that the contract going into effect, according to my recollection, on the 1st of April, Rerdell, in July, after repeated remonstrances from some of the officers of the Department, and demands for an explanation of why no service had been put on the route, wrote a letter explaining that the Congressional investigation, to which allusion has been made this morning, had detained him here, and stating that service would be put on. Then there came what seemed to me a fair shower of sublettings and withdrawals of this contract, and authority assumed to deal with it by Mr. Miner, I think, whose name, up to that time, had nowhere appeared in connection with it, and then again by Mr. Rerdell, as attorney for Mr. John W. Dorsey ; then that contract would be withdrawn and something else would be substituted, and, in short, everything seemed to be doing about the contract except the straightforward thing of carrying it out. Later on, however, I did find a contract made with a man living out there, the husband of a postmistress on the route, and to my surprise I found that Mr. Dorsey, or Mr. Rerdell for him, had agreed to give this man living on the route twice the amount, substantially, that he was to get from the Government for performing the service ; so that while the Government apparently saved \$3,000 a year, Mr. Dorsey seemed to be losing it. But, in this contract, as in all of them, I found a stipulation contemplating that increases would be made, and in this contract with the man living on the route I found a double provision of that kind, one saying that if the mail should be ordered to be carried three times a week, then the carrier should have \$12,000 per annum for the service, and if it should be ordered to be carried six times a week, then he should have \$28,000. Then I found that subsequently petitions had been presented, or papers were on file, requesting an increase of the service on that route to three times a week—some asking that it should be increased to twice a week and some to three times a week—and that it had been ordered to be carried three times a week and the

pay had been raised to \$22,000; so that the contract, which began by being a losing one to the contractor to the extent of \$3,000 per annum, had now become a profitable contract to the extent of \$10,000 per annum. I found, also, that not long thereafter daily mail service had been ordered on the route, and that then the compensation had been fixed at \$52,000; so that it now became a profitable contract to the gentleman holding it to the amount of \$24,000 a year. Well, of course, no one of these things alone would perhaps have created in one's mind anything but a very violent suspicion, but when they all came together they were very persuasive to my mind. Then, I found in that bundle of papers another very extraordinary coincidence. But before I mention that I ought to say that there had been two or three letters written by residents along the route (one of them by a gentleman who described himself as a young lawyer, and who wrote certainly a very intelligent letter and a very earnest one) protesting against these increases and protesting against the expedition (for the service had also been expedited), and one of these letters stated that some blockhead in the Department (using that or some equivalent expression) had evidently allowed himself to be imposed upon, because these expeditions and increases were in no sense a benefit to the public service, but were merely a cover for taking money from the Treasury. But there were also petitions on the other side, such as they were, the signatures to which and the appearance of which, according to my recollection, did not impress me very strongly. Still, those petitions were there asking for these increases, and there were affidavits made either by Mr. Dorsey or Mr. Miner or Mr. Rerdell (whoever for the time being was the subcontractor on record), stating that if this change in the service was made it would oblige him to employ so many more men and so many more horses, so that there seemed to be, on paper at least (and one ought to give that presumption to a public officer), some reason, such as it was, for the increase. But then I found that when a committee of Congress was authorized to investigate these star routes and to send for persons and papers, and after they issued subpoenas for the Second Assistant Postmaster-General, as I recollect, or for somebody in the Department, to bring the papers, there had been an entire wiping out of all that had been done in relation to this route, and the \$52,000 daily mail contract was reduced, at one stroke of the pen, back to a weekly service at \$3,000 per annum. Then, after some little time, and, I think, the intervention of some other papers, it was jumped back again half way, the service being made three times a week at \$22,000 per annum, and there it remained at the time I looked at the papers, the route having at that point been turned over to Mr. McKibben, I think, or to somebody, as the agent of one of the other combinations of contractors. When I got through with this examination of the papers it was supplemented by a pamphlet, which was put in my hands by somebody from the Post-Office Department, either Mr. Woodward or Mr. Gibson or the Postmaster-General himself, giving Mr. Rerdell's testimony before the Congressional committee, in which he had alluded to this contract among others, and in which he had stated that while this multiplicity of names appeared on the record the real parties in interest were S. W. Dorsey and James W. Bosler, and that while Mr. Jennings, which was the name of the subcontractor, had done all the work that had been done on the route, as a matter of fact very little had been done, and, what with fines and penalties for not doing the work, Jennings had received hardly anything, and the other gentlemen had not received near so much as they had expected; only, I think, in all about \$20,000,

or something like that. But I remember that Rerdell's testimony was very distinct and positive to the fact that those two were the two gentlemen who were really interested in the contract. Of the 93 cases I examined some half dozen others, not so carefully or thoroughly as I examined this, but the examination of them, some of them, being very much larger in the changes and figures, allowed my mind, rightly or wrongly, to reach a very settled and definite conclusion that there was a gigantic robbery of the public Treasury; unless, I ought to add, the ordinary indications of such things were at fault in these cases, and what I had discovered was due to the general looseness and irregularity with which things were done in the contract division of the Post-Office Department; because, in going along with these examinations you sometimes ran across various evidences of very gross irregularity, to say the least, so that wherever you touched the matter it seemed to ooze something that elsewhere would certainly be called crime. If you began with the bonds you found that they were certified without the slightest regard to facts; that the oaths were taken without the slightest regard to facts; that false bonds were put in by postmasters and certified by notaries public, without in any manner purposing to give the Government the slightest protection for the performance of the contracts for which they were demanded as security.

One of the very first cases of that kind was a little nest uncovered in my own city of Philadelphia, for which the parties were prosecuted, convicted, and punished. We all agreed that, having this condition of things upon the record here, the next step was to find out what the actual truth was about the service. I ought to say that in these increases I was struck by the absence of any attempt to protect the Government in the way of security, as the price and the obligation of the contracts went up. There was a perfect network of provisions on the subject by Congress, which are elaborately treated in an opinion by Mr. Freeman, of the Post-Office Department, given some time in 1880, which recited, for the instruction of the Department, the various provisions of law enacted on the subject, and illustrated the great care Congress had taken to see that there should be competition, real, genuine, *bona fide* competition for these contracts, and that whoever contracted to do anything for the Government must give security that he was going to do it. In the particular case to which I have alluded, as in all the other cases without exception, I believe, while security of a certain kind, or pretended security, was taken for the performance of that contract of \$3,000 per annum, and while competition had been exacted, and large sums spent in advertising to secure competition for that contract, no competition was contemplated or had, nor any advertising whatever, nor any bond taken, when that contract was multiplied by seven and raised to \$22,000, nor when it was multiplied by seventeen and raised to \$52,000. All the advertising that had ever been done to invite competition had been on the smaller contract and on the longer time, and the only bond that had been taken had been a bond upon the \$3,000 contract. If, however, the service had really been performed, then again it was reasonable to suppose that these might have been errors of judgment and merely a part of the general looseness that prevailed in the administration of the Department; and therefore it seemed to me, as it did to the Postmaster-General, indispensable to send men in whom the Department itself had confidence to examine the routes in question and to ascertain what, as matter of fact, had been done. If, as matter of fact, this service had been performed, though it might not have been necessary, then there would be some reason to suppose that it had been an

Il-judged exercise of discretion, and nothing more. Accordingly, the Postmaster-General, with such assistance as he could get, selected inspectors, and, at his invitation, I met them in the Post Office Department before they started, and explained to them just what we wanted them to do. I told them that there was no prejudgment (there had been a good deal of newspaper controversy upon the subject), and no disposition to have any; that we wanted them simply to go there as agents of the Post-Office Department and ascertain the exact facts, as nearly as they could, and embody them in official reports; and I told them that they had been selected because they were believed to be trustworthy and competent men, and we wanted such reports from them; wanted their reports thorough and complete; and as well substantiated by the evidence of parties resident who could give testimony one way or the other, as it was possible to have them, so that we might, by laying those facts alongside of the record in each case, ascertain what the true history of that particular route had been. That is the outline, or the basis rather, on which we proceeded; and it was upon the records here, and such reports as we got from these inspectors, that I proposed to form my own opinion about this matter and did form it; and it was upon those records and those reports that I relied from the beginning to end, in case any prosecution was instituted against these parties. I say that because from the beginning to the end I placed very little reliance indeed upon, and attached very little importance to, any pretended confessions or declarations by any of the implicated parties, or upon any such testimony against them as we might gather in the city of Washington or elsewhere. It became, however, necessary, at an early day, to furnish Mr. Woodward, who was conducting the matter under the direction of the Postmaster-General, with assistance; and Mr. Woodward had written a letter to the Postmaster-General declaring that he wished assistance; that he wished some person who was already very familiar with the cases to be employed by the Department of Justice, and to represent that Department in the investigations being conducted in the post-office building. He said that Mr. Gibson possessed in a high degree the qualifications he sought in an assistant, and had information of very great value, which he freely gave him, and that he was sure Mr. Gibson could be of inestimable service in the further preparation of these cases and the elucidation of the facts regarding them, and he asked that I, as Attorney-General, should appoint Mr. Gibson for that service as an assistant in the star-route cases. Mr. James, the Postmaster-General, cordially indorsed that letter, and upon it I submitted the matter to the President and received his authority to employ Mr. Gibson, which I did. That, according to my recollection, was in the latter part of April. Those gentlemen, so far as I knew, were very assiduously and constantly engaged in their work at the Post-Office Department, in collating these records and in framing instructions for the inspectors who were to go out, and in ascertaining what routes were most urgent for examination. As the matter went along, Mr. Woodward and Mr. Gibson united in a request to the Postmaster-General, who concurred in it, that Mr. Cook should be associated with them, to supervise the preparation of the cases for the criminal court-, and, upon their joint recommendation, the same course was pursued in that matter, and Mr. Cook was appointed. As his duties were to be more in the courts and Mr. Gibson's more in the Department, Mr. Cook was commissioned as an assistant district attorney for the District. I ought to say, in that connection, that Mr. Corkhill wrote me a letter declaring that the duties resting upon him in other cases were

such that there ought to be an assistant appointed in this District for these star-route cases, and Mr. Cook was accordingly appointed an assistant district attorney for the District of Columbia, and his commission was placed upon record, with the view that he should be in communication, of course, with the attorney for the District, but should act with special reference to these cases, he being supposed to have special knowledge of their details.

I do not know anything else that I need state in connection with these matters, until the wounding of the President. There was certainly nothing with reference to the employment of counsel by the Department of Justice.

The CHAIRMAN. Were you cognizant of the employment of Mr. Bliss?

The WITNESS. That came later; much later. I employed Mr. Bliss. When I saw the President, shortly after his wounding, on the floor of the depot, I was profoundly impressed, as everybody then was, that his death was a question of a very little time. I was continuously in Washington from that moment until we took him to Elberon, where I remained with him continuously until his death. In all that time it was a matter of newspaper comment that I was the gloomy member of the Cabinet. It was my misfortune to think each week, and almost each day, that the President was rapidly nearing his grave, and I therefore regarded it as only a question of a very little time when the duties of my office would cease, technically. To a very great extent, they had been already paralyzed by the wounding of the President; and I felt that it was undesirable, and, indeed, from my standpoint of duty, it would have been grossly improper, for me to complicate these cases by any action I could avoid when I knew I was not to be responsible for their final conduct. Whatever was necessary to be done in the interest of public justice I did, but I desired to do nothing that was not necessary, because I desired that the President who, I was firmly convinced, was to succeed at a very early day to the Presidency, and my successor in the Attorney-Generalship, should come to the cases as little embarrassed by any commitments of mine as was possible. It was no longer possible for me to consult with President Garfield, and the cases had been so completely carried on with his constant knowledge and sympathy, as far as my information went, that I felt a like course was due to his successor, and that I ought to keep them in as good condition as possible for him and my successor to deal with when the time came. I lived through those months in constant expectation that the time was at hand. I undervalued the President's vitality, but I did not mistake the character of the injury. The autopsy, whatever else it did, settled that I had judged that rightly. Shortly before the President died, it was felt by the gentlemen having charge of the matter, all of them—Mr. James, Mr. Woodward, Mr. Gibson, and Mr. Cook—that something ought to be done in the way of selecting the leading counsel to represent the Government. By that time it was known that many eminent counsel had been employed by the various defendants, and it was felt that we ought no longer to postpone the selection of counsel on our side. I then stated, as I believe the Postmaster-General stated this morning in my hearing, that I proposed to ask Mr. Brewster to come into the cases, and that as Mr. James did not know Mr. Brewster, I would be very glad to associate with him any lawyer of competent position in the profession whom Mr. James might suggest. It was impossible to consult with the President, and we had to act on the best light we had. I thought then, and I think still, that it was my duty to select members of the profession, if I could find them of proper professional standing, who had

heretofore maintained cordial personal and political relations with Mr. Arthur. That is the way I should have wanted a man in my place to treat me. I knew that Mr. Brewster had for many years sustained such relations. He had been attorney-general of my State and had discharged the duties of that high post with honor to himself and to the profession. I knew him to be a man of courage, and, so far as I could judge of the qualities needed, he possessed the other qualifications which I thought extremely desirable. I therefore invited him into the cases, and he came. Mr. James suggested Mr. Bliss, and I accordingly invited Mr. Bliss on that suggestion. That was very shortly, and by shortly I mean a few days only, before the President died, and at a time when each hour I was expecting his death.

Immediately upon the accession of President Arthur, I told him of my convictions of public duty. I told him that I thought it would be unbecoming in every way for me to remain in my place and injurious to the public interests, according to my judgment, but that, of course, I was not only willing but anxious to do everything in my power to relieve him from any embarrassment, and would cheerfully stay thirty days or sixty days, if it was necessary for him to take so long a time to select my successor. Thenceforward, really I had very little to do with this matter. I went, of course, with President Garfield's body to Cleveland, and on my return President Arthur, very naturally and properly, wished that I should say to the country that my leaving the Cabinet was my own act, and accordingly the agent of the associated press was kind enough to allow me to make a statement to the country, in which I took the entire responsibility for it, and stated the reasons for it. Subsequently the President asked if I could reconsider the matter, and I told him that I could not; that I would gladly talk it over at any time, but I was profoundly convinced that my usefulness was ended, and that my remaining longer in office would be an injury to the public justice, and that I would have to act, as each man must, upon his own convictions of duty. Finally, it resulted in my leaving the office. I stated, through the associated press, and by the courtesy of its representative, my determination to withdraw, and I gave the reasons for it very explicitly and fully, and on the 14th of November I turned over the office to the Solicitor-General, who, under the act of Congress, becomes the Acting Attorney-General under such circumstances, and he retained charge of the office for some time afterwards.

Mr. STEWART. Did you have any conference with President Arthur specially, with reference to these star route prosecutions?—A. Yes. Well, I ought to say I had several conferences with him as to the general subject of the prosecution of those cases, as to my own view of the cases, and what was necessary to be done in them.

Q. What desire did the President express about that?—A. The President expressed the desire that I should remain and continue responsible for the prosecution of those cases; first, as Attorney-General, and subsequently as leading counsel for the Government. That statement, however, both in justice to him and to me, I ought to premise by giving the history of it. After my return from the funeral of President Garfield, and my announcement through the Associated Press of the position I occupied, which I read to the President, which seemed entirely satisfactory to him, and which is in the public prints of the day—

The CHAIRMAN [interposing]. What is the date of that announcement?—A. I should say it was September 27, 1881. After that the President asked me to allow the matter to rest until his return from

Yorktown, where there was to be a celebration, and upon his return he stated that he had selected my successor, but had some difficulty in communicating with him; and he was kind enough to confide to me the name of the gentleman whom he had selected. At a subsequent interview he stated that, owing to some representations which had been made to him, he had changed his mind in that respect, and had decided to ask another gentleman to take the place, at least for a month or two, and said that the name of the latter gentleman would go to the Senate at the same time with the name of the new Secretary of the Treasury. It is part of the public history of that immediate time that ex-Governor Morgan, of New York, was offered the Treasuryship, and that he was in doubt whether his physicians would allow him to take the place, and they finally decided against it, and subsequently Judge Folger was selected. The President thought that on a certain day, however, he would be able to send in the names of both the new Secretary of the Treasury and my successor, and accordingly, with his authority, I fixed the day when I would close my house here and go home to Philadelphia. I did go home, and while in Philadelphia I received a message from the President's private secretary, asking me to meet the President at the depot while the limited express stopped there. As that was only a few minutes, and as I had to talk with the President upon the step of the private car in which he was traveling, lest we should be moved out of the station, it was an unsatisfactory interview; but I gathered from what he said that he would like me to reconsider the question of taking the responsibility of these star-route cases upon myself. I answered then just as I had before, but suggested that we could not talk of a matter of that consequence upon the steps of a car liable to move at a moment's warning, and that if he wished I would go to New York to see him about it; and he subsequently wrote me, asking me to come over, and I went over. I found him, then, strongly possessed with the idea that I ought, either as Attorney-General or as leading counsel for the Government, to continue my responsibility for those cases. I explained to him, at the time, how comparatively slight my relation to them had been; how, as matter of fact, it had never entered my mind that I was to prosecute them in person; that as a political officer, as well as the professional representative of the Government, I thought it was impossible for the Attorney-General to undertake to try questions of that character in the criminal courts, and that there were perfectly apparent reasons, reasons to my mind of overpowering force, why it would be fatal to the cases if I assumed responsibility for them. I had previously written him the same views, and I again expressed them in conversation at this time when I went over to see him in New York. I then came back on the train with him and Judge Folger, probably on the 10th or 12th of November, and immediately thereafter resigned my office, leaving Mr. Phillips in charge of it.

Without concluding the examination the committee adjourned.

WASHINGTON, D. C., *March 6, 1884.*

WAYNE MACVEAGH recalled and further examined.

The WITNESS. After I left the stand yesterday I found, Mr. Chairman, that your persuasive manner of asking me to go on and make a general statement had led me into doing so without any adequate

thought beforehand about it. When I took the witness chair I was really like Mr. Canning's knife-grinder, "I had no story to tell"; and if I went on as I did I was sure, after the great lapse of time, to do what I probably have done—state some things which were unimportant and which probably were not within the line of what you wanted to know, and possibly omit other things which you would be glad to know. My only desire is to tell the committee anything within my knowledge that they wish to know, and not to volunteer information. Not that there is anything that I would not be glad to put them in possession of, but because I really cannot tell its comparative value to them, and if you would indicate even generally what you would like to know, I will then answer, not confining myself to your questions, but answering in perfect good faith as to everything relating to it. I was only sorry upon reflection that I did not ask you to pursue that course with me yesterday.

The CHAIRMAN. Your statement was such a one as the committee desired to have you make, and was in response to the general question put to you.

Mr. STEWART. If you will allow me to suggest, Mr. Chairman, it seems to me that the scope of our inquiry under the resolution bears upon two points, and perhaps upon only two points: First, generally, whatever the late Attorney-General knows in reference to expenditures, or contracts for expenditures, in connection with the star-route prosecutions; and secondly, whatever he knows as to the good faith and fidelity of those who were employed by the Departments. It seems to me that these are the two points and the only two that are really of any special interest to us as a committee. Am I right?

The CHAIRMAN. That is the general scope of the investigation, but we are also to determine whether proper efforts have been made to secure the conviction of those who have been guilty of frauds upon the Government. It is all embraced in the general subject.

Mr. STEWART. I understand that the term of office of the late Attorney-General had expired before those matters were taken up by the Department, so that that information would come more properly from some other witness.

The CHAIRMAN. The machinery was in great measure set in motion during Mr. MacVeagh's time as Attorney-General.

Mr. STEWART. Mr. MacVeagh went out of office in November, and the indictments were not found until afterward.

Mr. VAN ALSTYNE. He investigated the facts upon which the indictments were predicated.

Mr. STEWART. He has stated what investigation he made, and he has stated also that during the remainder of his term of office after the assassination of President Garfield, not being able to communicate with the President, there was to some extent a paralysis of action in his Department, especially in reference to these matters; as everybody can see would very naturally happen. So that I do not see that Mr. MacVeagh can give us any further light except as to expenditures or contracts for expenditures which were made during his administration, or as to whether the gentlemen who were employed with him were reasonably diligent and faithful while he had charge of the office—unless he knows something about the subsequent conduct of the prosecutions.

The CHAIRMAN. I desire to ask Mr. MacVeagh to explain the conversation to which Mr. James referred yesterday as having occurred between the President and Mr. James and the then Attorney-General, Mr. MacVeagh. That conversation, as testified to by Mr. James, was to the effect that he and Mr. Woodward called upon President Garfield on one occasion and laid before him the facts which had been developed

by their investigations with reference to the persons who were to be prosecuted in connection with the star-route matter, and the nature of the prosecutions generally; that the President inquired whether the Attorney-General had been consulted, and Mr. James replied that he had not, but proposed to consult the Attorney-General at once; that on a subsequent day Mr. James and the Attorney-General called on the President in reference to these matters, whereupon, as Mr. James states, the Attorney-General, Mr. MacVeagh, proceeded to inform the President of the nature of the evidence that had come to his knowledge, and suggested to him to consider whether, in view of that evidence, he still desired that the prosecutions should be instituted. Do you remember that conversation, Mr. MacVeagh?

The WITNESS. I cannot say that I distinctly remember *that* conversation; but that answer would not be correct unless I added to it that I do remember substantially a conversation of that kind with the President. As practical men, we all knew these cases would present themselves to anybody's mind—they did to mine certainly—as possibly having certain very grave political complications. One of the gentlemen accused had been a United States Senator, and had been an active agent of the Republican party in the then recent canvass which had resulted in the election of the President. Another gentleman whose name was a subject of common rumor in connection with this matter I believe was then a United States Senator and a Republican Senator, and at that time, according to my recollection, the Senate was Republican by only one majority. In addition to that, there was a perfectly well marked and universally known division of opinion in the Republican party. I cannot say that I recall the particular identical conversation to which General James refers, for I knew nothing of what he would state here until I read it last evening in print, but I certainly do remember explaining very fully to President Garfield, in the presence of the Postmaster-General, the very great gravity of the initial steps of these investigations. I explained that at first appearance the figures were so startling and the uniformity of evidence of mismanagement was so absolute wherever we touched the matter, that it seemed to me that the President, as Chief Executive, ought to consider well, before taking any step from which retreat would be impossible, what the consequences of that step would be; that if I was joined to those cases and started upon them, there was no way to stop them short of an exhaustive examination through the judicial machinery of the country, before grand juries and petit juries, except, of course, the resource he always had, of dispensing with my services; but that also might become embarrassing, and that therefore it was of very grave consequence to everybody that the matter should be well considered before we started. I was induced perhaps, partly, to state this view more fully than I otherwise would have done, because of allusions appearing in the public prints to certain relations that had subsisted between these gentlemen and General Garfield, certain letters said to be in their possession, and to which allusion had been made, and various such things about which I knew nothing, but which caused me to feel it my duty, as a confidential adviser of the President, to lay this matter before him in the way I did lay it before him.

Q. Did you give him the name of the Senator whose prosecution was contemplated?—A. I cannot remember; but certainly he knew everything that I knew from time to time, and must, therefore, have known, either from the Postmaster-General or Mr. Woodward, or myself, the

names of *all* the people accused. More than that, I think it was a subject of newspaper comment. Of that, however, I am not sure.

Q. Did you give him the name of the other distinguished gentlemen?—

A. Of course that remark would refer to ex-Senator Dorsey and to Mr. Brady, who was at that time, I suppose, or had just been, a very distinguished official here, Second Assistant Postmaster-General, in charge of this great business of the Contract Bureau, and who had been also more or less prominent in political affairs.

Q. Has the term of the Senator to whom you referred in that conversation with the President expired?—A. The Senator to whom allusion was made was Senator Kellogg. The case has since become matter of judicial investigation. Of course, nobody presumed at that very early stage to pass upon the guilt of those people. All that was said was that such accusations were made, and that the investigations would involve very disagreeable work, indeed, if they were undertaken.

Q. Were any efforts made during your term of office to secure the indictment of any of those three gentlemen?—A. No, sir. It seemed to me that one of the misfortunes of the cases was that the magnitude of them, the extent of territory over which the evidence extended, the period of time it covered, and the character of the testimony, made it absolutely impossible, in my judgment, for any intelligent presentation of them to be made within the time which some gentlemen seemed to suppose was sufficient. I explained that fully in the interview with Senator Dorsey and his counsel, to which Mr. James has alluded. I stated that we had then no charges to formulate against anybody; that we were not in a position to formulate charges, but that we had found certain records in the Department which upon their face were exceedingly unfortunate, it seemed to me, and very persuasive of guilt; that we had started, or proposed immediately to start, trained and competent examiners to investigate the facts in distant States and Territories, and that it was only when their reports were collated with these records, and carefully and skillfully collated, that any person would be in a position to form a really reliable or valuable opinion upon the facts. I never expressed any opinion upon them for publication anywhere. Such opinions as I did express were expressed to the President and the Postmaster-General, and to them only, and I never furnished for publication in any shape or form any opinion in relation to those cases. I never tried them in the newspapers to the slightest degree.

Q. State to what extent you investigated the facts, to learn whether it was probable that prosecutions must be instituted against the persons you have mentioned.—A. Well, I had no doubt whatever from the records, that unless there was something to be produced to change the impression those records created, it would be necessary to proceed against those gentlemen by indictment, and I stated to Mr. Dorsey at the time to which I have referred that the matter had gone so far that it would be perfectly useless to attempt to settle it by any other than a judicial investigation; that any other kind of investigation would be of no value to any accused person; that behind us was the President, and behind him was an aroused public opinion and the press of the country, and that it would be quite impossible to give any value to any investigation conducted in the Department itself, or conducted otherwise than through the ordinary judicial channels, where every innocent person, as I pointed out, had every possible opportunity to establish his innocence. I pointed out that an acquittal in court which commended itself to the intelligent public judgment would be valuable to the persons accused, whereas any investigation made by Postmaster-General James

at that time, or made at all in the Department itself, which was under investigation, would be comparatively valueless.

Q. State what efforts were made to induce the Post-Office Department, or the Department of Justice, or the President to institute an investigation outside of court of the charges against ex-Senator Dorsey and others.—A. I don't know. I only know that it was by mere accident I found myself in the Post-Office Department on the occasion that has been mentioned here. I went there on a call from the Postmaster-General, without any knowledge whatever that I was to meet Mr. Dorsey or his counsel, or else I went there accidentally—I am not sure which; but I did meet them and I then understood——

Q. [Interposing.] Who were present on that occasion?—A. Colonel Ingersoll, Mr. Dorsey, the Postmaster-General, and myself.

Q. Proceed with your statement of the interview.—A. I understood from something which was said at this interview with Mr. Dorsey and his counsel that it was supposed that that method of investigation was feasible. Whether that was attributed to the Postmaster-General or to the President I am not sure, but my impression is that in that conversation it was stated by somebody that such a method of investigation was supposed by the President to be feasible. However, I do not recall the particulars of that very distinctly, but I do remember very distinctly having stated to the President just the views I had expressed at this interview with Mr. Dorsey and his counsel, and that they received the President's cordial approval. Of course it would not be telling the whole truth to be silent upon the fact that these prosecutions were a source of very great anxiety, and I might almost say, at certain stages of them, of distress, to President Garfield. It would be very strange if it had been otherwise; and I have no doubt that at times gentlemen may have felt that there were other methods of correcting these wrongs than the methods which General James and I were pursuing, though I have no knowledge of that; I never was present when such a thing was said. All that I asked of the President was that he would permit us to keep him fully advised of every step taken, and I assured him that no step would be taken of a positive nature as to the filing of indictments or the issuing of warrants of arrest without his knowledge, because I wanted him to be cognizant of each step of really grave importance taken.

Q. Did he express a desire to be so informed?—A. He expressed assent to that view, and thought it would be well that he should be so informed.

Q. Were any extraordinary efforts made by Mr. Dorsey or his counsel to have the President take these investigations out of the ordinary judicial channels, and institute a special investigation?—A. I only know that from what was stated at this meeting at the Post Office Department. My impression is that at that meeting Mr. Dorsey asked me if I proposed to disregard the "orders of the President" or the "wishes of the President," and that I answered that I had no knowledge of any wishes or orders of the President which I was contravening.

Q. You understood the President's orders to you to be to follow the ordinary course of judicial proceedings in investigating and prosecuting these cases?—A. Yes, that was my understanding; that was certainly what I stated to him in the most explicit manner, and what he approved.

Q. What was the result of that interview which you had in the Post-Office Department with ex-Senator Dorsey and his counsel, Mr. Ingersoll?—A. Nothing whatever came of it.

Q. It was decided, then, to proceed in the ordinary course?—A. Yes.

I ought to state that in the latter part of June, or perhaps the middle of June, of that year, I went to Amherst College and to Harvard University, and while absent I received, from somebody associated with the star-route matter here, very urgent telegrams demanding my immediate return, to counteract an effort that Mr. Dorsey and others were making to have me turned out of the Cabinet. If I replied at all, and I think I did, I certainly replied that that was not an object sufficiently near to my heart to induce me to shorten my stay in New England, that I had only a few days' vacation, and proposed to spend them where I had expected to spend them, and that in the mean time if I should find myself relieved of official cares it would not diminish my own enjoyment. Therefore I did not come back until the time when I had intended to come. When I came back, I was told, I think by the Postmaster-General, or by some of the gentlemen associated in the matter, that a vigorous effort had been made in my absence to have me turned out, and that evidence, or papers purporting to be evidence, had been laid before the President of very gross and very base conduct on the part of General James and myself, going to the extent, I think, of suborning witnesses and engaging in a plot to steal papers. I was interested in only one phase of that matter, and that was to know whether the President had seen fit to receive charges of that character about me in my absence, and upon asking him about it he said he had declined to receive any such paper whatever and had answered that if it was left with him the only action he could take upon it would be to have the man who had made it immediately arrested for perjury.

Q. Who had made these charges?—A. It was Mr. Rerüell who had made the charges.

Q. Was he one of the persons charged with offenses in connection with these star-route cases?—A. Yes, sir; he is the person alluded to by Mr. James.

Q. Was that the affidavit of so-called retraction?—A. Yes, sir; the retraction which was subsequently re-retracted on the trial.

Q. Who had presented that affidavit to the President?—A. Mr. Dorsey. Mr. Ingersoll had gone with him, but I don't know that he made himself responsible for the affidavit.

Q. Then the efforts to remove you came from those who were implicated at that time in the star-route frauds?—A. Yes, sir.

Q. And, so far as you know, those efforts to have you removed were made for the purpose of preventing the prosecution in court of those star-route cases?—A. Well, I ought not to impute motives to those gentlemen. I prefer just to give their acts and to let the committee judge of their motives. Of course *they* would say that they wanted to get me out because I was a bad man.

Q. And that they were working for the public good?—A. Yes.

Mr. STEWART. They were not disposed to kiss the rod.

The WITNESS. No. Now, in that connection, it is perhaps not improper, if the committee will indulge me, to call attention to the fact that these efforts were, as I was told, also urgently supported by the newspapers representing those gentlemen, notably their newspapers here and the Commercial Advertiser, Mr. Hugh Hastings' paper, in New York.

By Mr. VAN ALSTYNE:

Q. They urged the propriety of your removal from the Cabinet?—A. Yes; they urged my unfitness for the place of Attorney-General and the

necessity for my removal. Those efforts had been progressing ever since I had been associated with the cases, as I was told. I have had a life-long habit, which has been a source of some comfort to me, of reading only the agreeable things that are said about me. I know those are true and I know that the others are untrue [Laughter], and therefore I have not burdened my life with them. But some of the other gentlemen associated with me were not so wise, I think, and they occasionally told me that I was being abused in their company as violently as they were, and while I was in New England I did, quite incautiously, read in one of the Boston papers an extract from an article published here which gave me a new view of my own character and career. But, as soon as President Garfield died, as I had been opposed to the view of the parties accused while he lived, I then thinking it was my duty to remain in the Cabinet, and they thinking it was my duty to go out and doing what they could to put me out; so, as soon as the President died, the parties accused, with most wonderful unanimity, saw that it was my duty to remain, and again I was at odds with them, because I then thought it was my duty to go out, and the difference of opinion was quite as loud and pronounced in the last case as in the former, and was even, if possible, more bitter in expression on their part. So that I have never found myself happy in agreement with them from first to last.

By the CHAIRMAN:

Q. What efforts did they make after the death of President Garfield to have you retained in the cabinet of President Arthur?—A. They poured upon me a torrent of abuse for declining to remain, and when I went out they insisted that I should return, and they kept it up day after day for months, and as at that time, as ever since, the country was very properly disposed to be kindly toward President Arthur, who had just entered upon his duties under such very sad circumstances, and who merited and received the sympathy of all right-thinking people; so other newspapers (to whose Washington correspondents these gentlemen had access, perhaps—or, perhaps, on public grounds alone) joined in the demand that I should remain and become responsible for these prosecutions. They represented that the prosecutions were being left naked and defenseless, and that I was running away from them; when, as a matter of fact, as you now know and as I knew then, there were four special counsel employed in the cases—Mr. Brewster, Mr. Bliss, Mr. Cook, and Mr. Gibson—quite as many as could be useful to the Department of Justice, and also Mr. Woodward, representing the Post-Office Department, so I thought I was leaving the cases in perfectly safe and competent hands.

Q. Did you assign in your own mind any reason for this change of policy on the part of the gentlemen to whom you have referred?—A. Oh, yes. It was perfectly apparent to me. I was known to have been in very ardent political sympathy with President Garfield. On all the questions about which the Republican party was so strenuously divided—almost into two hostile camps at Chicago—upon every one of those questions I had been in as hearty accord with him as I had been in strenuous opposition to President Arthur. Mr. Arthur was well known to entertain and to have given expression to a very poor opinion of “sentimental” politicians, of whom I was supposed to be one, and I was known to have long entertained and frequently expressed a very poor opinion of “practical” politicians, of whom he was supposed to be one; and these gentlemen certainly must have seen that the President who had

called me here, and who had sustained me under great abuse and obloquy in these prosecutions, being now dead and buried, I was in no position whatever to bring to them the requisite moral support. Then, too, they were complicated by the other fact that the feeling of hostility between the two divisions of the party had been intensified by the New York nominations, so that the papers edited by Mr. Gorham and Mr. Hastings, and other gentlemen in the interest or in sympathy with the defendants in these cases, had, from that divergence between President Garfield and the other gentlemen from New York, taken the side espoused by Vice-President Arthur at that time, and had steadily supported him, and as steadily assailed us. They were his ardent supporters, and while Mr. Gorham and Mr. Hastings could hardly find adequate language to express their contempt and poor opinion of President Garfield, of Postmaster-General James, and of myself, they very properly passed as ardent eulogiums upon the gentlemen whose supporters they were. That continued down to the very morning of the shooting of the President, and, to a very considerable extent, it continued after the shooting, and when the death occurred, and I came back here, I found President Arthur not unnaturally—quite naturally and inevitably—in close political relations with Mr. Gorham and Mr. Hastings and other gentlemen who had taken but one view of my course in the star route cases, and that the most unfavorable view possible. Now, when you add to this the peculiar character of the District of Columbia as an arena for such a strife, I think you will see why, as the Attorney-General of a dead President and a past administration, I felt it would be a betrayal of the public justice for me to continue in any manner responsible for prosecutions against gentlemen so wealthy, of such political power and repute, and so entrenched as those defendants were. I think also that the committee will be able to see why it was my duty in selecting counsel to take charge of these cases to select gentlemen on whose fidelity to him the incoming President could have absolute confidence.

Q. You stated yesterday that President Arthur desired you to continue in the Cabinet, or in the position of chief prosecutor of the star-route cases?—A. Yes. I would say that a change occurred, according to my best judgment, in the President's view upon that subject. I certainly want to do him full justice in everything I say here. I do not think the President felt at first that I ought to continue. It had been my duty as well as my pleasure to keep him informed during the summer of my view of President Garfield's condition, and to insist that he must hold himself in readiness at any time to take the great office which would devolve upon him, and it had been my duty and my pleasure when the sad event occurred at Elberon to make everything in my power as little unpleasant as the awful tragedy itself permitted, and so in his coming here. I think the President felt at first precisely as I did about our future relations, and, as I have said, when I published through the Associated Press what I did publish, taking the fullest responsibility for my course, I certainly had no reason whatever to suppose that it met anything but the cordial approval of the President. But after the President made a visit to New York, I thought there was some change in his view; I thought he then began to suppose that I should remain, but he did not urge that view strongly, and I certainly had no reason at that time to suppose that he did not think that I was the proper judge of that question. Subsequently, however, he became more convinced that I ought to remain, and that, as I have already stated, was after he had seen his way clear to offer the place of Attorney-

General (according to his statements to me, which I have no doubt were entirely correct) to two other gentlemen, and after I had left Washington. And here I ought to state that these newspapers in Washington had imposed upon newspapers throughout the country, and had induced them also to publish statements about unkind relations existing between the President and me, which were as absolutely without foundation as if your name, Mr. Chairman, had been substituted for mine.

Q. Do you mean the relations between you and the present President?—A. Yes; President Arthur; and one pretended scene at a Cabinet meeting, where, it was represented, the President had taken me to task and used very peremptory language to me, which was sent out and published all over the country. This was absolutely manufactured—manufactured without the slightest shred or pretense of truth or foundation in anything that had occurred. There was nothing but the utmost kindness and the utmost friendliness between the President and myself. This, of course, was embarrassing to me, because these gentlemen who were instrumental in publishing and in commenting very savagely upon these things, Mr. Gorham being one of them, were, very properly, in intimate relations with President Arthur, and when I say in intimate personal and confidential political relations, I speak not only of what is a part of the history of that time, but I myself was brought into constant contact with at least one of those gentlemen when I went to see the President.

Q. What reason did the President assign to you for desiring you to continue responsible for the prosecutions in the star-route cases?—A. That I had been, in the public mind, associated intimately with them from the beginning, and that any failure to remain associated with them would be misunderstood by the country.

Q. Did he say anything about desiring the responsibility to rest with the former administration and desiring to avoid responsibility in the matter himself?—A. No; he never did to me.

Q. Did he say anything about desiring to have you continue in the same work that President Garfield had started you in?—A. Yes, sir.

Q. What did you understand to be his position on that subject?—A. I understood the President's position to be that the cases should go on just as they had been started, and should go on in the same hands in which they had been started. He failed to agree with my judgment that that would inevitably create the impression in the District of Columbia that those cases were treated as a legacy of the dead President, and that I was merely administering upon his estate.

Q. Was any suggestion of that kind made to you?—A. No, sir; that suggestion was made by me, and made by me from the first as the reason why it was impossible for me to do justice to those cases. Another illustration of it was the case of the district attorney here, Mr. Corkhill. I have no knowledge that justifies me in saying anything about Mr. Corkhill, except that he and I had a very unfortunate difference of recollection about a very important matter; but I will say that it seemed to me in these cases from the beginning that it was not only a question whether you might not do injustice to some person then in office, but whether if an officer was generally supposed in this District to be in sympathy with the defendants, an administration prosecuting men of this rank and wealth and position, could afford with one hand to prosecute them and with the other to retain in important official positions gentlemen known to be, or believed to be (which was the same thing for the purposes of the trial), in very ardent sympathy and in close relations with them. Now, almost upon the inception of the pro-

ceedings I was told that Mr. Corkhill had not the confidence of the gentlemen engaged in the investigation; but, on the contrary, was supposed to have favored General Brady in a previous investigation into his Department, and to be in friendly, cordial, sympathetic relations with the parties who were involved in this business. Whether that was true or not I had no means of ascertaining, but I made up my mind that it was quite impossible for us to conduct the cases hopefully without a change in that office. Colonel Corkhill had himself written me a letter on the 1st of June declaring that a special assistant ought to be appointed to take charge of these cases in the District, and under the recommendations of the Postmaster-General and Mr. Woodward and Mr. Gibson, Mr. Cook was appointed. Colonel Corkhill's letter pointed out what the duties of such a person would be; that he would be a district attorney for these cases, and would be familiar with the details of them. When I was starting to Long Branch, according to my recollection, Colonel Corkhill met me at the foot of the stairs of my Department and asked me when I thought these star-route cases would be ready for the grand jury. I said that in my anxiety for the President I had not lately been concerning myself about the details, but that of course his own special assistant, appointed for that purpose, could give him any information he wished. Mr. Corkhill's recollection of that conversation is that I said that when the grand jury was needed for the star-route cases he would be informed of it. Mr. Cook's commission, however, had been filed in the records of the court here, and while I was at Long Branch in consultation with Mr. Bliss, Mr. Brewster, Mr. Cook, Mr. Gibson, and Mr. James. Mr. Cook returning here to prepare one of the cases for the grand jury, was told at the depot that Colonel Corkhill had adjourned the grand jury without his knowledge or any consultation with him. The night before President Garfield was shot the subject of a change in the district attorneyship here having been several times discussed, and then coming up again, he explained to me his wish, if I could see my way to approve it, to appoint Mr. Riddle of this District, a long-time friend of his, he said, and one whose appointment he had endeavored to secure from President Hayes at the time when Mr. Corkhill was appointed, and as I knew Mr. Riddle and his character well, I cordially concurred in that wish of the President, and the next morning before the shooting occurred I had written a note to Mr. Riddle asking to see him on a matter of business. I did not see him until that night at the White House, and I then told him what the object had been, but stated to him, of course, that it had been suspended by the shooting. Of course I did not then assume any longer to interfere, but I believe that everybody concerned in the prosecution of the cases thought that Mr. Corkhill ought to be removed, and I earnestly expressed that wish of everybody concerned to President Arthur; but, as was very natural and very proper, he took a different view of it. The President thought that it would not do to remove Mr. Corkhill until Guiteau was tried, he having found the indictment. I, on the other hand, endeavored to point out that having, with the President's consent, selected Judge Porter, of New York, and Mr. Walter Davidge, of this bar, to conduct that prosecution for the Government; and the case being such as it was, I thought the Government could dispense with the services of Mr. Corkhill at once, and that it was very important, if possible, to have that done now, as his presence in that office would, in my judgment, be continually detrimental to the prosecution. The President,

however, as he had a perfect right to do, thought it would be better to retain Mr. Corkhill, and he was retained until his term expired.

Q. What reason had you to believe that Mr. Corkhill would not faithfully perform his duty in the prosecution of the star-route cases?—A. Well, that I could only say from the unfortunate impression that had been made by him in another prosecution which had been instituted and had come to naught some time before, a result which the gentlemen investigating these matters believed was partly due to Mr. Corkhill's conduct; and the fact that the people I spoke to, who seemed to me to be in earnest about these cases, were all of one opinion about Mr. Corkhill and about the misfortune of having him in that office. I had no knowledge on the subject myself, and, as I say, that opinion may have been unjust, but it was so strong that even after I retired he never was intrusted with anything connected with the star-route cases. So that the anomaly was presented of having a district attorney in the District in which these defendants were to be prosecuted who never was allowed to know anything about the prosecution, or to take any part whatever in it. That may have been all right, and I am bound to presume that it was; but that was not my view at all. I only use this as an illustration to show how it was impossible for a person diametrically opposed, as I was, on so many points of political methods and standards to President Arthur, to avoid running into differences as to persons. Then, too, I have always held the view that the President's official family should, in justice to him, be composed of persons in whom he had implicit confidence as to their personal and political fidelity to him and to his views.

Q. Did you have any reason to suppose from the facts you have stated that you would not be earnestly supported by other branches of the Government in the prosecution of the star-route cases if you continued in charge of them?—A. I could not see how I could hope to have any *moral* support in the cases, and it was moral support alone in this District for which I cared. The record evidence, when laid alongside of the evidence furnished by the inspectors, was, rightly or wrongly, so conclusive to my mind, so absolutely conclusive, that nothing more could be desired in that direction. The question, then, was of the *accidents* of criminal jurisprudence, such as, first, getting the majority of a grand jury (a body which sits in secret, which need give no account to any one for its doings, and each individual of which is protected from any responsibility for his findings) to indict; and, in the second place, if you escaped that difficulty, to get twelve men selected from the panel in this District to convict. What was needed was not that there should be anything done affirmatively, but that the negative influences in this District should be removed. Of course, I could not go on with any hope of success with the Administration organ (as it at once came to be called, very properly and naturally) edited by Mr. Gorham, while Mr. Gorham entertained, and was in the habit of frankly expressing, the very poor opinion he entertained of me and of these prosecutions, their motives, their methods, and their results. In other words, there would have been a steady outpouring upon this community every morning and every evening and every Sunday, from what were ostensibly Administration sources, of abuse of the prosecutions being conducted by the Government! In addition to that, I knew perfectly well that very soon the President would very naturally and properly find it come in the course of his sense of duty to select for public honor and favor gentlemen to whom the public opinion of this District ascribed sympathy, and ardent sympathy, with the defendants. That was inevitable, and those appointments all followed just as I had ex-

pected they would follow, and as they properly followed, so far as I am concerned. I have nothing to say about that. I only say that they were appointments which I foresaw, not as to individuals but as to character, and which, in my judgment, were certain to be fatal to any prosecutions in those cases in this District.

Q. Do you know whether the influences used to retain Colonel Corkhill in office came from those who were suspected to be implicated in the frauds?—A. I have no knowledge at all upon that subject; not the slightest. At the time the President thought it was his duty to retain him in office until the Guiteau case should be at an end, that was the limit he stated to me of his purpose in that regard. Afterwards he changed his mind, for a perfectly proper reason as he saw it, I have no doubt, and all I say is, I wish the committee to bear in mind, and not to lose sight of the fact, that I am looking at these things from the standpoint of my political standards and views, while the President was necessarily looking at the same things from the standpoint of his political standards and views.

Q. You have spoken of an interview of the President on the steps of a car in the depot at Philadelphia; did that interview have reference to retaining you in office as Attorney-General or to employing you as chief prosecutor in the star-route cases?—A. I don't remember whether at that time the matter was broached of my accepting a retainer from the Government as leading counsel or not, but it certainly was in the subsequent interview at New York. That was a very hurried and unsatisfactory talk in the depot, because that train stops in Philadelphia but a few minutes.

Q. You have stated that you caused the Associated Press, about the 27th of September, 1881, to make a publication with regard to your views; did you also bring those views to the attention of the President in person?—A. Yes, sir.

Q. You told him that you could not remain in the service?—A. Yes, sir; I shall be very glad if you will allow me to refer to that publication which I made through the Associated Press.

The CHAIRMAN. Certainly.

The witness read the dispatch as published in the New York Tribune of September 28, as follows:

Attorney-General MacVeagh stated, this evening, when approached on the subject of the Cabinet, that he had no objection to speaking frankly as to his own position. He said he recognized, to the fullest extent, the propriety of President Arthur selecting as his confidential advisers gentlemen who had heretofore sustained relations not only of personal good will, but also of political sympathy with him. Indeed, he did not think any administration could be strong if there was any ground for suspicion or distrust among its members. As soon, therefore, as the President had taken the oath of office, Mr. MacVeagh said he had tendered his resignation in writing. He had also assured the President that the resignation was not a form, but a fact, and that he hoped it would be convenient to designate his successor by the time the Senate met in special session. Mr. MacVeagh added that on public grounds he felt no difficulty in pursuing the course his feelings dictated. The only political work to which he attached any importance at this time was the work of administrative reform, including, of course, the exposure and relentless pursuit of all plunderers of the public Treasury. If President Arthur engages heartily and thoroughly in that good work, as he hoped and believed he would, then he was entitled to the credit of doing it with an Attorney-General of his own selection, and not with one inherited from President Garfield. The Attorney General spoke very kindly of President Arthur, and said he was sure the country would judge him not only fairly, but generously, and not by the selection of one person or another for his Cabinet, but by the general policy of his administration.

Q. The interview of which that dispatch gives an account is the one to which you have heretofore referred in your testimony?—A. Yes, sir.

Q. And it is correctly stated there?—A. Yes, sir; correctly stated.

Q. And it explains your position as you have already stated here?—A. Precisely.

Q. This date to which you have referred was, I believe, immediately after the funeral services of President Garfield at Cleveland?—A. Yes, sir.

Q. Now, as to your successor, there seems to have been some difficulty about choosing him. You spoke, yesterday, about a gentleman having been first selected, and the selection afterwards abandoned; who was that gentleman?—A. I beg to suggest to the committee that they do not care to go into that. I only mentioned the fact that the name had been confided to me by the President, to show the kindly relations which we were then sustaining towards each other.

Q. The failure to nominate that gentleman had no bearing, you say, upon star-route cases?—A. Yes; it had some bearing upon the star-route matter. That is, he was not nominated at that time, as I understood it, because of the bearing his selection might possibly have upon the star-route cases. I do not know that there can be any objection to going so far as that, but I don't care to go further than that. The gentleman was subsequently made a member of the Cabinet, given another Cabinet place, and the change was justified in the President's mind by public considerations entirely.

Q. Is there any further statement that you desire to submit in regard to that Associated Press dispatch?—A. No.

Q. Did you have any correspondence with the President with regard to your continuance in office?—A. I wrote him a letter about it which was published some time ago, a full letter, which was made public at the time of the removals in this District on the demands of Mr. Bliss and Mr. Brewster.

Q. What was the date of the publication?—A. I cannot give that now, but I will hand you a copy of the letter.

Q. Is that all the correspondence that passed between you?—A. That is all I now recall that I wrote him.

Q. You state that you asked Mr. Brewster, the present Attorney-General, to accept employment in the star-route cases; was that before the death of President Garfield?—A. Immediately before his death.

Q. And after his wounding?—A. Oh, yes; within a week of his death, when his death was, to my mind, only a question of a few days certainly, possibly of a few hours.

Q. You also state that you employed Mr. Bliss on the suggestion of Mr. James; state, if you please, what contract, if any, you made with those gentlemen with regard to the compensation they were to receive in those cases; state first with regard to Mr. Brewster.—A. If you will allow me, I would rather go back so as to include my entire relation with that matter, so far as I have been able to ascertain it.

Q. I would prefer that you should state it all.—A. I remember very distinctly the employment of Mr. Gibson as an assistant of the Department of Justice in this District, with special detail to the work of the star-route cases. I know it was made about April 22, because I have found a letter of Mr. Woodward in the Department of Justice, indorsed by the Postmaster-General, earnestly requesting the appointment of Mr. Gibson, as of that date. I assumed, of course, that Mr. Gibson's appointment had been conveyed to him in proper form, because his appointment was made a subject of immediate comment in the newspapers, and was generally known in the District; but subsequently I discovered that that had been omitted, and I then wrote a letter recti-

fying the omission. Mr. Gibson entered upon his work at once, so far as I remember, and I suppose it must have been about the 1st of June that Mr. Cook was appointed, because I find that Colonel Corkhill's letter asking for an assistant is dated June 1. I judge that the first communication with Mr. Bliss and Mr. Brewster on the subject of these cases was about the 10th of September, and they probably were first brought into active work in connection with the cases about September 15. It seems that no letter of appointment was written to Mr. Gibson, but to Mr. Cook, Mr. Brewster, and Mr. Bliss, as appears from the Department's files, letters were written in the usual form. I assume that, from the statement of Mr. Phillips, when Acting Attorney-General, in a letter which I find he sent me, in which he says that they are to be employed at a compensation to be fixed by the Attorney-General, "when the cases are ended" I think is the phrase; but whatever the formal phrase was, it was followed. As I say, I left the Department not expecting to return except with my successor, whom I was to join on the train at Philadelphia and accompany here and introduce to his Department. I left here October 25, according to my recollection, not expecting again to return or to have any further charge of the Department officially, and that was the condition, as I understand it, of the record when I left. While I was in Philadelphia I was in consultation with Mr. Brewster and Mr. Bliss about their fees. I do not recall what had been said before, or what was said then, but I am very sure I must have said, or I ought to have said, and therefore I presume I did say, that the cases were of very great importance, very great difficulty, and very great magnitude in a financial sense, and that therefore these gentlemen would be decently and honorably compensated according to the character of the services required of them and their own standing at the bar. After I had left the Department in charge of Mr. Phillips as Acting Attorney-General, but before my formal resignation, each of these gentlemen, with my hearty concurrence, my hearty unofficial concurrence, and, so far as I had any right to give it, my hearty official concurrence, asked \$2,500 on account of their services in these cases, and it was paid to them upon the approval of Mr. Phillips as Acting Attorney-General.

Q. To whom was that payment made?—A. To Mr. Bliss and Mr. Brewster each. I thought it reasonable and proper, and cordially approved it.

Q. Was that estimated upon a per diem basis, or was it just a payment on account?—A. It was a payment on account of services. The subject of a per diem had undoubtedly been talked over, and, according to my recollection, had been the subject of one letter from Mr. Bliss to me—the payment of \$100 per day and expenses; but I also remember, I think, that I had pointed out that it was impossible for the Acting Attorney-General, or the Attorney-General himself, to make a contract of that kind.

Q. Have you a copy of that letter?—A. I do not think I have. At any rate, I wrote a letter to Mr. Phillips (I will open the bundle directly and see just what I have got in it) unofficially, saying that I cordially approved the payment to each of those gentlemen on account; and as I was technically still Attorney-General, of course that would persuade Mr. Phillips to make it, and would answer every purpose; and if I am not responsible for that payment, I should be glad to be. Then my technical relation to the Department terminated on the 14th of November, 1881; but, according to my recollection, about New Year Mr. Bliss and Mr. Brewster consulted me again in Philadelphia about making out their bills, or, rather, Mr. Brewster consulted me about the

settlement of his account, it being then publicly known, or at least known to me, that he was to be the Attorney-General. He expressed a natural desire that I should give, unofficially, my opinion about the value of his services, because he did not want to sit in judgment on his own bill in any way, and Mr. Phillips would feel less hesitancy about acting in the matter if I would express an opinion upon it. He told me that he intended to present a bill for \$5,000, crediting the Government with the \$2,500 which had been paid him, and that Mr. Bliss, who had been more constantly engaged, and, indeed, I believe had been engaged at that time every day possibly from the 10th of September to the 1st of January, if I am correct as to the dates, in continuous labor, proposed to make his bill \$6,000, crediting the Government with the \$2,500 which he had received. In the mean time the information here had been prepared and elaborately argued, and the other work had been progressing in the preparation of the indictment, and these two gentlemen had been, as far as I could judge, very industriously and continuously employed about that work. I said that I had no right, of course, to interfere officially in such a matter, having now severed even my technical connection with the office, but that it seemed to me the charges were reasonable, and that if an expression of that opinion from me, while I disliked exceedingly to give it, would relieve a brother lawyer in any way I should be glad to take upon my head any responsibility that could be put there about it, and I said in this letter to President Arthur, as I had said to him personally over and over again, that the termination of my official connection with the star-route cases must not be understood as indicating any unwillingness to be of service unofficially in the matter, and that, without limit and without reward, I would be glad to put any knowledge or any assistance that it might be in my power to give at the service of anybody interested in prosecuting those cases. I said, too, in these letters that I would be glad to take any responsibility that I properly could about the cases. I wrote to the Acting Attorney-General, Mr. Phillips, that I, if in his place, would see no difficulty in paying Mr. Brewster \$5,000 for his services to the first of the year, and in paying Mr. Bliss \$6,000 for his services from the middle of September to the 1st of January, according to my recollection of the dates; and Mr. Phillips accordingly ordered those bills to be paid. I ought not to assume even that he relied upon my letter, but I thought it right to write the letter, and did so.

Q. Did you understand that the \$6,000 paid to Mr. Bliss and \$5,000 paid to Mr. Brewster were in full for their services from the beginning of their employment up to the 1st of January?—A. That is my recollection, but I am not sure that the date was the 1st of January; it may have been up to Christmas day; I know it was in the holidays.

Q. Did the payments to Mr. Bliss and Mr. Brewster include any bills for expenses?—A. I will open this bundle and see what light these letters throw upon the subject. Here is a letter appointing Mr. Brewster, dated Department of Justice, September 29, 1881.

DEPARTMENT OF JUSTICE,
Washington, September 29, 1881.

SIR: You are hereby appointed special assistant United States attorney for the District of Columbia, to aid in the prosecution of certain persons charged with being concerned in frauds on the United States in connection with what is known as the "star route" investigation, at a compensation to be determined by the Attorney-General when the suits are ended.

This appointment to take effect from the 15th instant, at which time you were orally engaged by me.

You will take the oath prescribed for district attorneys, and transmit the same to this Department.

Very respectfully,

WAYNE MACVEAGH,
Attorney-General.

BENJAMIN HARRIS BREWSTER, Esq.,
Philadelphia, Pa.

I assume that a similar letter was sent to Mr. Bliss, but I do not find a copy of it among the papers furnished me. Now, I find a letter from Mr. Brewster, dated October 28, 1881, which I will read:

706 WALNUT STREET, PHILADELPHIA,
October 28, 1881.

MY DEAR SIR: After we parted last night, Mr. Bliss advised with me as to our fees in the star-route cases, as you said we should do.

We have arrived at the following result, and agreed that I should promptly communicate it to you; so that we may have your immediate action, while you have the authority to act.

First, we now request you to pay us each \$2,500 for the services thus far given.

Second, that your successor may be informed of the understanding between us, and be prepared to fulfil your engagement with us.

I repeat here what was expressed last night, as to the rate of compensation to be allowed us while we are in charge of these cases; and that was, we are to be paid, each, \$100 a day while occupied in the cases, either out of court in the preparation of them, or in court in the trial and argument of them, together with our expenses.

I have the honor to be, with great respect, your obedient servant,

BENJAMIN HARRIS BREWSTER.

To Hon. WAYNE MACVEAGH,

The Attorney-General of the United States, &c., Philadelphia.

Here is what is furnished me as a copy of my letter to Mr. Phillips in relation to the letter of Mr. Brewster which I have just read:

402 WALNUT STREET, PHILADELPHIA,
October 31, 1881.

MY DEAR SIR: I beg to inclose you a letter I have received from Messrs. Brewster and Bliss, special counsel in the star-route cases. Considering the professional standing of these gentlemen, I have no doubt you will agree with me in thinking it proper to pay them the fees they now ask; but they are doubtless aware that you cannot bind the Government to any contract in the matter which would control the action of my successor when appointed.

I think, however, it would be proper for you to say that you recognize fully the gravity of the cases in their charge, the very great amount of labor connected with their prosecution, and the entire reasonableness of their expectation that the Department will compensate them fairly and justly for the industry, zeal, and ability it knows they will devote to the matter in question.

Of course, I only offer these suggestions for your consideration and decision, for you are acting Attorney-General, and I am only awaiting the appointment of my successor, but I thought you would be glad to know my views on the subject.

Sincerely, yours,

WAYNE MACVEAGH.

Hon. SAMUEL F. PHILLIPS,

Acting Attorney-General.

Indorsement (in the handwriting of Sol. Gen. Phillips): The Atty. Gen'l, Nov. 1, '81. Answered, Nov. 1, '81, saying that I would carry out the contract, referring to the clause "at a compensation to be determined," &c., &c.; see letter appointing the gent.; that I was indisposed to do more than pay them \$2,500 "on acct. of services *in general*," & say nothing of the \$100 per day, &c. See Mr. Brewster's note to the Atty. Gen'l, inclosed & dated Oct. 28, 1881.

Q. You meant by that letter that you were not to be responsible for any fees that might be paid after the expiration of your term of service?—A. Yes, sir.

Q. And you expressly disclaimed any responsibility for contracts after that time?—A. Certainly. Now, I have here a letter of December 31, 1881, which I wrote Mr. Phillips in relation to the bills of Messrs. Brewster and Bliss:

402 WALNUT STREET, PHILADELPHIA,
December 31, 1881.

MY DEAR SIR: I have been shown the bills of Mr. Brewster and Mr. Bliss for services in the star-route cases to this date, and I have no doubt you will cheerfully approve them so that they may be paid.

I have, of course, no right to express an official opinion, but unofficially I venture to say that if in your place I would certainly approve them.

Sincerely yours,

WAYNE MACVEAGH.

Hon. SAMUEL F. PHILLIPS.

Q. Are those the only bills for attorney's fees that you approved even in an unofficial way?—A. They are the only bills of those two gentlemen. That must have been the last letter that I was asked to write upon this subject, because it was then a month and a half after the termination of my official relation with the Department, and I could not have gone on writing letters of that kind.

By Mr. STEWART:

Q. When did you first communicate with Mr. Bliss after the request of the Postmaster-General that he should be employed?—A. I should suppose it was at the time I communicated with Mr. Brewster, that is September 10, but Mr. James may have been in communication with Mr. Bliss. I think I saw Mr. Bliss at Elberon several days before Mr. Brewster was able to get there, because he was engaged in a case in the interior of Pennsylvania, and could not get to Elberon so soon, and it may have been a day or two before the 10th of September.

Q. Do you know whether you communicated with Mr. Bliss first by writing, or in a personal interview?—A. It must have been in a personal interview.

Q. At Elberon?—A. At Elberon.

Q. Was the subject of his conversation a matter of compensation between you at that time?—A. I think not at all.

Q. Let me ask you whether, in view of the magnitude and importance of the cases, the great sum of money involved in them, their difficulty, and the professional standing of Mr. Bliss and Mr. Brewster, the amount charged per diem by Mr. Bliss (I don't know that Mr. Brewster charged a per diem) is, in your judgment, unreasonable?

Mr. VAN ALSTYNE. That is a very broad question.

Mr. STEWART. I intended it to be broad. It is a direct question and a fair question.

The WITNESS. I don't know that I am familiar with the matter of a per diem charge running over a very great length of time. I certainly would not think such a charge unreasonable within a limit of time, but whether for a year's service or two years' service one would charge a per diem or charge a gross sum I hardly know. My own charges have uniformly been upon the other basis, but I certainly do not think that for taking a person of Mr. Bliss' standing at the bar from his office in New York and obliging him to remain here away from it, \$100 per day was an excessive charge according to the standard of charges at that bar. I ought to say, however, that the standard of charge at that bar is higher than at my own bar and always has been.

By the CHAIRMAN:

Q. I desire to call attention to the account against the United States rendered by Mr. Bliss and set forth in Ex. Doc. No. 40, first session Forty-eighth Congress, page 15. Please look at it, and state whether you recognize that as the one which you approved?—A. [After looking at it.] I have no knowledge that is the one, but I have no doubt it is. The amount is the same and the rate is about the same.

Q. What is the amount of that account?—A. \$2,500. There is the same amount charged as paid to Mr. Brewster.

Q. The date of the approval of that account in the office of the Comptroller was November 10, 1881, so far as Mr. Bliss is concerned, and in Mr. Brewster's case the approval in the First Auditor's office is on November 8th, 1881. I desire also to ask you to look at the accounts of Mr. Brewster and Mr. Bliss, set forth on page 21, in reference to the remaining portion of the account.—A. [After looking at the document.] I don't remember that I saw the itemized account of Mr. Bliss or his bill for expenses. I may have done so, but I have no recollection of it. I have a recollection of the total of \$6,000 and also of the total of Mr. Brewster's account, \$5,000.

Q. As you see stated in these two papers?—A. Yes, sir; they are the same, and those are the dates to which my unofficial letter to Mr. Phillips, which I have read, applies.

Q. Was your attention then called to the expense account of Mr. Bliss?—A. I could not say whether it was or not; of course, at that time I would not scrutinize such accounts, because I had no right to do so, and no reason for doing so.

Q. What I desire to know is, whether your approval was simply of the charge of \$6,000, or whether you had your attention called at the same time to Mr. Bliss' expense account?—A. I do not recollect that; but the practice there has been to file the expense accounts with the other accounts, if there have been any expenses. I see that Mr. Brewster has no expense account attached to his bill.

Q. No, Mr. Brewster has not filed any expense account; but Mr. Bliss, in addition to the \$6,000, has an expense account amounting to \$388.83.—A. Yes.

Q. I see a note appended to this signed "W. L., Comptroller," which is as follows:

Statement of account of George Bliss, special U. S. district attorney, D. C. Sum allowed on the sole ground that the Attorney-General has approved, and his approval is conclusive as to this office.

Did you understand that to be the case, that the approval of the Attorney-General in regard to fees in the Department of Justice was conclusive upon the Comptroller?—A. I have never looked at that question; my own judgment was that Mr. Lawrence did not think anything was conclusive on him.

Q. I think this decision has been referred to as justifying the Comptroller in approving accounts subsequent to your time as Attorney-General; but what I wish to ask you now is whether your responsibility for the amounts which these attorneys were to receive ceased with the approval of those two accounts to which your attention has been called?—A. Which two?

Q. The two accounts of Mr. Bliss and Mr. Brewster?—A. Of course; my official responsibility really ended with the payments to those gentlemen of the two sums of \$2,500 each.

Q. I know you ceased to be Attorney-General about that time; but

what I desire to know is whether you had made any legal contracts in relation to the fees of these gentlemen?—A. My letter to Mr. Phillips speaks for itself; it states that no contracts were made. Their letter was a request that such a contract should be made, and my answer on that point to Mr. Phillips was that they were “doubtless aware that you cannot bind the Government to any contract in the matter which would control the action of my successor when appointed.”

Q. You speak of the reasonableness of the charges in the two cases, \$5,000 by Mr. Brewster and \$6,000 by Mr. Bliss, for the periods which those charges respectively cover?—A. Yes, sir.

Q. And for nothing else?—A. For nothing else.

By Mr. VAN ALSTYNE:

Q. That reflected upon the value of the information that they had obtained or its probable value in the future conduct of the cases, and had reference to that, as well as to compensation for the time that had been in its procurement?—A. No; I really thought that that time, say from the 10th of September to the 1st of January, three months and a half, devoted by such lawyers to the service of the Government, in such a cause, was fully worth what they asked, and that the sums for which the accounts were rendered were simply reasonable, decent professional compensation. Of course, that is only my judgment, and I may be wrong about it.

Q. Did you at any time understand, or do you now understand, from the construction you give to the letters which passed between you and these gentlemen and the Department, and from your recollection of all that occurred in connection with the matter, that you ever undertook to allow them a *per diem* of \$100 and expenses for any indefinite length of time that they might be connected with the cases?—A. Oh, certainly not. But, just as I answered a question of Governor Stewart, and as I stated in my letter, I did expect that whoever succeeded me would compensate them fairly and justly for their services in that matter, having due regard to its magnitude and difficulty; and, for days actually spent here, away from their offices and business, it does not seem to me that, within limits, \$100 a day is excessive compensation, especially to a member of the New York bar.

Q. Please explain what you mean by “within limits.”—A. I simply mean this: that I think, as between men of business, a lawyer being on one side and a business man on the other, if he is going to require your services elsewhere than at home, for a considerable length of time, it does not naturally occur to either of you that the compensation will be a *per diem*, but rather you will be asked how much you will render the service for; or rather, when it is done, you will present your bill, stating the length of time occupied and the time having a very close relation to your bill; but, after all, the bill is not controlled by that; whereas if you are away only a week, the time has a still closer relation to the compensation, because you put a certain pecuniary value upon your time in your profession in your own office, at your own bar.

Q. If the time occupied was fifty days you think that would be a provident arrangement, but if the time extended to 150 days, do you think that arrangement would be a provident one?—A. Well, even for 150 days I am not sure that it would be an improvident arrangement. I do not know how long Judge Porter was here in the Guiteau case, but I should not think that Judge Porter's services in that case, considering the responsibility and the disagreeableness of it in every way, would be more than fairly compensated by a fee of \$15,000, if he was 150 days

away from his office, and that time was devoted to that business here. Such fees are rare in the history of the profession, but I think they are fairly earned when half a year of one's life, and all that that implies, is given to such service in such a case.

Q. What I am trying to reach is your view as to where a per diem compensation should cease and a gross compensation be substituted?—

A. That, it seems to me, it is quite impossible to answer as an abstract proposition, or even as a concrete proposition. It may be that gentlemen would differ about that. There are counsel, undoubtedly, who make that the rigid rule by which their compensation is fixed. I have never done it myself, but there are counsel at every important bar in the country who do it, and if they adhere to a rigid rule of that kind, without respect to persons, why it is because they find it satisfactory to them, and satisfactory to their clients; and I think you have to take the facts of the case, and the actual time given to it, into account, in each instance, in order to judge properly. There certainly are lawyers in New York, and I trust there are some in Philadelphia, who, as a mere matter of professional gain, would not find it to their advantage to break away from their business at home and to devote six consecutive months of working days to a cause out of their own jurisdiction, and away from their own offices, without the possibility of maintaining their professional relations at home, even at a compensation of \$100 a day.

Q. During the time you were Attorney-General, and when these matters were under review, was it talked over, or discussed, or advised about, that an information should be filed in these cases instead of a formal indictment?—A. Yes. In the first place, while I was absent in New England, among other things that happened was a procession into court by the defendants, and a demand, which was telegraphed all over the country, that they should have an immediate trial, because they were assailed in the newspapers; and they offered as conclusive proof that the Government had no case whatever, and that the prosecution was a pretense, the fact that we were not then immediately ready to go on and give them the public hearing which they claimed was necessary for their vindication.

Then immediately after came the shooting of the President, and then a case was selected to be got ready for the grand jury, in order to meet the demand of these parties, and what seemed to be the public demand, and what had been the importunity of the President himself that some active steps should be taken in the matter. While that case was being prepared for the grand jury, through the occurrence about which the recollection of Colonel Corkhill and myself differs, the grand jury was adjourned. It was, I believe, thought that the statute of limitations would have run before that case could be presented to the grand jury, and as the defendants had been demanding an open, public opportunity to vindicate themselves before the court, it occurred to these gentlemen that they would be only too eager to accept an information (which was only the basis for a trial), without going through a secret hearing before the grand jury, to which they could not be a party, and which, therefore, could not be of any benefit to them in the way of a vindication. Mr. Bliss, who had had very large experience in these matters, having been district attorney of such an important district as that of southern New York, thought that possibly a proceeding by information might hold, and he looked into the matter, and while at first doubtful about it, his view became stronger as he went on, and finally he satisfied himself that there was reasonable ground to believe that such an information could be maintained, even if assailed, and I think there was a general feeling

that it would not be assailed at all, but that the defendants, having this opportunity of a public trial at an early day, would seize it and go on in accordance with their professions. At that time the whole matter had been turned over by me to Mr. Bliss and Mr. Brewster, and I gave cordial consent to any conclusions that they reached—the formal consent that they desired, if they desired any, and I do not remember that they did. I was no party to the matter in any shape or form, but I cordially approved whatever they thought was right to be done.

Q. That proceeding by information was not based upon your judgment at all?—A. Not at all. I never looked at the question of the information, or examined it at all. I did not think, however, that it could do any serious harm. I surrendered the cases to the judgment of Mr. Bliss and Mr. Brewster, and took no part in the examination of the law or in the argument.

By Mr. STEWART:

Q. As to the expense account rendered by Mr. Bliss, did that meet your approval?—A. I have always understood that expense accounts are rendered almost universally in connection with the charges of attorneys employed by the Department of Justice, and that is my experience; and, therefore, if the items of expenditures in the account were correct, I should see no reason why they should not be paid by the Government instead of by the counsel. But I never looked into that matter, as I had no right to do.

The CHAIRMAN. I desire to call your attention to the fact that the date of the approval of this last account is January 4, 1882, which tends to corroborate your view, that the bill was for services up to the 1st of January, 1882.

The WITNESS. Yes. I think my letter on the subject speaks of the account as for services “to this date,” and the date was December 31, 1881.

By the CHAIRMAN:

Q. I believe you have stated that you yourself suggested the employment of Mr. Brewster?—A. Yes, sir.

Q. That was before you had any knowledge of his probably succeeding to the office of Attorney-General?—A. Oh, yes; entirely before.

Q. Do you know any further than you have stated any fact which led to the employment of Mr. Bliss?—A. No, sir.

Q. Do you know whether any efforts were made by persons outside to secure his appointment?—A. I do not.

Q. No one came to you?—A. No, sir; and I should be surprised if there were any. I felt that it was due to the Postmaster-General that he should be represented by a lawyer in whom he had entire confidence, and all I asked (in which he cordially agreed) was that the lawyer selected should, by his past relations, political and personal, be in no manner an embarrassment to the incoming President.

Q. So far as you know, then, the suggestion of the employment of those two gentlemen, Mr. Bliss and Mr. Brewster, came from those who desired the earnest prosecution of the cases?—A. I think so; undoubtedly.

Q. And not from the gentlemen themselves?—A. Not at all; I have no doubt that in both cases the employment was entirely and absolutely unsolicited. In Mr. Brewster's case, I know it was, and I have no reason to doubt that it was equally so in the case of Mr. Bliss, though I have no *knowledge*, of course, on that subject.

By Mr. HEMPHILL:

Q. Can you assign any reason why Mr. Brewster's services were not worth as much as Mr. Bliss's?—A. In the interval, you mean?

Q. I mean from their first employment.—A. During the time for which I have spoken of their compensation?

Q. Yes.—A. Yes; Mr. Brewster had not given as much time to the matter as Mr. Bliss. I could not state the difference in figures in any portional way, but I know it was considerably less, and that Mr. Bliss had been very much more constantly engaged in the cases. My own impression was, and still is, that Mr. Bliss was substantially constantly engaged in those cases from the 9th or 10th of September to the 1st of January, and that Mr. Brewster, while giving every service required of him in the matter, had still not been as constantly or assiduously engaged in it as Mr. Bliss.

Q. Does not the compensation of attorneys, as a general rule, depend, not only upon their standing at the bar and the time and labor they give to a case, but also in some measure upon their success?—A. Yes; undoubtedly. As a general rule, the compensation of counsel is affected in many cases by the consideration of success or failure when the final settlement comes to be made; but in very many other cases it is quite independent of such considerations. Still, I think the average lawyer always feels like charging his client more when he has gained something for him, and less when he has failed.

By the CHAIRMAN:

Q. You may proceed now to the statement you were about to make with regard to the employment of Mr. Gibson and Mr. Cook, and their fees.—A. My recollection of it would be that I was asked to give Mr. Brewster, after he had entered upon his duties as Attorney-General, my friendly counsel as to what I would do if I were in his place about the bills of Mr. Cook and Mr. Gibson, and that, my good nature again getting the better of my prudence, I gave him my view of the matter, and, according to my recollection, it was that, if, as I supposed to be the fact, those gentlemen had been assiduously and constantly employed upon the cases between seven and eight months, and had been faithful in the performance of their duty, the sum of \$5,000 would be reasonable compensation for each of them, and that if I were in his place I should not hesitate to pay it. I find in this package a letter from me to the Attorney-General relating to that very matter, marked "Compensation of Gibson and Cook," and while it need not go upon the minutes in its full form—because there may be some personal points in it—I will read the whole letter. I suppose there was a letter from Mr. Brewster, to which this was my reply.

[The letter recites the circumstances of the appointment of Messrs. Gibson and Cook, and the character of their services, and concludes: "If in your place, however, and I was acting with the lights I now have upon the subject, I see no reason why I should hesitate to approve payments to each of five thousand dollars. Perhaps Mr. Cook may be entitled to some addition to cover expenses, but of that you can judge."]

Q. You have referred, I think, to some other letter which passed between you on that subject?—A. No; I do not think there is anything else in relation to that. I think that what I have given the committee covers my whole connection with that matter, as far as I remember.

By Mr. STEWART:

Q. Please state whether, in your judgment, while you had any offi-

cial or personal knowledge of the condition and management of those star-route prosecutions, there was any neglect on the part of the officers of the Government to investigate and push the cases to a conclusion?—A. There certainly was nothing of the kind during my time here, and it is, of course, only with reference to that time that I would be competent to answer.

Q. My question relates only to that.—A. Well, from the time those cases were brought to my knowledge until I left the Department, I do not know of any negligence on the part of anybody representing the Government, or any failure on the part of such persons to do their duty in the matter.

By the CHAIRMAN:

Q. Is there anything else that you desire to add in relation to the fees of these attorneys?—A. There is this indorsement, which I find in the handwriting of Solicitor-General Phillips, referring to my letter of suggestion to him as Acting Attorney-General: "Answered November 1, 1881, saying I would carry out the contract, referring to clause, at a compensation to be determined, &c. See letter appointing these gentlemen—that I was indisposed to do more than pay them \$2,500 on account of services in general, and say nothing of the \$100 per day, &c.," which was, in substance, just my letter over again.

Q. Then, if I understand you, all that you had to do with regard to the compensation of any of the attorneys in the star-route prosecutions was your approval of the accounts of Mr. Gibson and Mr. Cook for \$5,000 each. You made no agreement with them beforehand?—A. No, sir; I would say the commendation of their accounts, not the approval of them, for that is a technical word.

Q. You made no contract with them during your term of service, but, on the request of the Attorney-General, you simply——? A. [Interposing.] Expressed my opinion.

Q. In favor of paying \$5,000 in each case?—A. Yes; one for eight months' service and one for seven months.

Q. What you have stated covers your connection with that matter?—A. Yes.

Q. Now, with reference to the employment of Mr. Brewster and Mr. Bliss, your responsibility ceased with their accounts for service up to January 1, 1882?—A. My *responsibility* ceased, I suppose, with the first payment to them of \$2,500 each.

Q. But you did not, directly or indirectly, as Attorney-General, contract with them, or approve any account of theirs, extending beyond those two payments of \$5,000 and \$6,000?—A. I cannot suppose that I did. I cannot believe that I did, and I have no recollection of having done so. I asked the chief clerk of the Department of Justice, upon my promise to return them to him, for such letters as he could find that had passed from me to the Department in reference to the matter of the compensation of these gentlemen, telling him that I would testify from memory first, and then refresh it by the letters, so that the committee might get the exact truth; but I do not think there is any other letter that I could have written on this subject, though I had no recollection of these letters. I have, however, recollection of my attitude in the matter.

Q. So that any compensation paid Mr. Bliss after the 1st of January 1882, was not bottomed upon any agreement made with you as Attorney-General?—A. No, sir.

Q. Nor any contract?—A. No, sir. I may have expressed the opin-

ion, in talking to Mr. Bliss, that his bill as presented was reasonable, and that may or may not have been upon the basis of \$100 per day. I do not think his charge was a per diem up to the time I went out; but however that may be, he certainly must have seen my letter to Mr. Phillips as Acting Attorney-General, in which I distinctly stated that he could not make such a contract to bind my successor.

By Mr. STEWART:

Q. I suppose, after these gentlemen had notified the Department of Justice that they expected \$100 a day for their services, unless the charge was disapproved in some express terms, they might reasonably expect that that would be the basis of their compensation, might they not?—A. I suppose they might; but it would appear that they hardly took that view, because Mr. Brewster, one of the gentlemen, made no bill for a per diem at all.

Q. But he very soon came into office as Attorney-General?—A. Well, I am speaking of the only bills that were presented at that time, and I assume that those gentlemen must have seen and known of my letter to Mr. Phillips, in which the idea of such a contract was disclaimed. I do not think this matter could for a moment rest upon any misunderstanding as to contract. I think it must rest upon reasonableness; for this reason, that while those gentlemen asked in their letter that some such contract should be made, I inclosed that letter to the Acting Attorney-General, and wrote to him declaring (what had been talked over between us, and was understood) that he was doubtless aware that he could not make any contract in the matter which would bind my successor, and in that letter I say: "I think, however, it would be proper for you to say that you recognized fully the gravity of the cases in their charge, the very great amount of labor connected with their prosecution, and the entire reasonableness of their expectation that the Department will compensate them fairly and justly for the industry and ability it knows they will devote to the matter in question. Of course, I only offer these suggestions for your consideration and decision, for you are Acting Attorney-General, and I am only awaiting the appointment of my successor," as they knew. On that letter the Solicitor-General made the indorsement that he would "carry out the contract at a compensation to be determined, &c. (see letter appointing these gentlemen), that I was indisposed to do more than pay them \$2,500 on account of services in general, and say nothing of the \$100 per day, &c."

Q. That is a memorandum made by the Solicitor-General?—A. Yes, sir.

Q. Have you a copy of the letter to which he refers?—A. I have not. I do not know to whom the letter was sent, but the bills were not approved on the per diem basis I think; in other words, that the matter of these payments must have rested in the mind of the Attorney-General upon what was a reasonable and just compensation for the services of these gentlemen. But of course I knew nothing about that. He may have erred and supposed that there was some contract relating to it, but there certainly was none in that sense.

The CHAIRMAN. For the purpose of settling the question whether these bills for services up to the end of December, 1881, were on a per diem basis or otherwise, I call attention to Mr. Bliss's account, which shows that it was not, because on the per diem basis the account would have amounted to much more. There is a note at the bottom of the page which reads: "September 14 to December 25, constant services

in New York between these dates, other than those occupying an entire day, or when absent, as above, \$6,000."

The WITNESS. I thought it was not on a per diem basis. I thought Mr. Phillips had declined to allow that.

The CHAIRMAN. The time covered by the account would be about 93 days. Now, during the time that that bill covers Mr. Bliss's services, at the per diem rate, would have amounted to about twice as much as his bill, would they not?

The WITNESS. Yes; if the figures which you have shown me are correct.

By the CHAIRMAN:

Q. You made an incidental reference to some suits in Philadelphia in connection with star-route matters. Will you please state what those suits were?—A. I referred to those merely as an illustration. They were, according to my recollection, suits for making fraudulent bonds in connection with star-route mail service.

Q. What were known as "straw-bail" cases?—A. Yes. They were a branch of the general division of the frauds known as straw bond and bail cases.

Q. Who were the defendants in those cases?—A. There were several—Black, McDevitt, Carson, Arbuckle, and I do not remember whether there were any others or not.

Q. Was there any consultation among the attorneys in the star-route cases in regard to the propriety of prosecuting any of those parties at that time?—A. I would not be able to recall the details of any such consultation.

Q. Do you remember whether anything was said in consultations of the star-route attorneys, with regard to the propriety of granting immunity to any one of those defendants in order to use him as a witness?—A. No, I do not specifically. I know that the Postmaster-General and Mr. Woodward had general charge of that subject, and whatever they thought wise to do would have been, as far as I was concerned, unhesitatingly approved, unless it had met some sufficient objection.

Q. You do not know whether you recommended giving immunity to any person there?—A. No, sir; I do not, to any particular person.

Q. Do you remember the case of McDevitt?—A. I remember his case. I do not have a distinct recollection that at any time his statements were sufficiently satisfactory to my mind to induce me to take that action. I do remember that at one stage they were not satisfactory, and I do not remember that they subsequently became so. The Postmaster-General and Mr. Woodward would both probably be able to recall such a circumstance, but I do not. It is a matter in which, of course, I would depend upon them, because they were familiar with the details and I was not.

Q. You do not remember, then, whether any of those defendants were suggested as useful witnesses in the prosecution?—A. Oh, I remember that Mr. Woodward thought that McDevitt would be a very useful witness indeed, and that he was disposed to give a great deal of valuable information pertaining to some one of the combinations; I remember that Mr. Woodward had frequent interviews with him on the subject, and that Mr. Woodward's views were shared by the Postmaster-General, but I do not remember that I assented to them or that I dissented from them. That, however, would not be important one way or the other. Whatever the Postmaster-General and Mr. Woodward concluded on that subject would probably have been carried out, as I would

be disposed to yield my judgment to theirs, because of their greater familiarity with the subject.

Q. State whether, during the time you were Attorney-General, and before the death of Mr. Garfield, or before his wounding, you made any recommendation with regard to the arrest of any of the star-route defendants.—A. I do not think I did. My relation to the cases from first to last was generally as a *quasi* political officer of the Government, as well as a legal adviser.

Q. I think I have seen it stated in the press that there was at one time a general movement to arrest a number of these parties. Do you remember that?—A. No, I think not. I do not think there was anything contemplated but what was done at the time.

Q. Have you a copy of your letter of resignation of the office of Attorney-General?—A. I believe I have.

Q. That explains your reasons for retiring from the Cabinet?—A. Yes.

The CHAIRMAN. Please leave a copy of that letter with the committee.

The WITNESS. I will do so.

The letter is as follows :

PHILADELPHIA, November 8, 1881.

MY DEAR MR. PRESIDENT: Your letter has just reached me, and I will come to see you and talk over once more the subject of which it treats in the same spirit of conciliation in which we have heretofore discussed it. I will telegraph you in advance of my coming, which will be just as soon as I can free myself from engagements here.

In the interval I wish you to consider again the reasons why I cannot share your opinions upon this subject. As I have already told you, I knew comparatively nothing about the star-route frauds until President Garfield called my attention to them. He spoke very earnestly of his duty to have them thoroughly investigated, to remove all persons who ought to have prevented them, and to see that all persons were prosecuted against whom reasonable grounds for such a course were developed by the investigation. He said he had explained to the Postmaster-General the same views, and also why he wished him to consult me rather than the district attorney of the District. The Postmaster-General called upon me, and we went together to the President. He was quite as emphatic as before in the expression of his own opinion upon the subject. He spoke of the frauds as unparalleled villanies, as a loathsome ulcer on the body politic, needing to be cut out, with all its roots, no matter where they extended. He stated that while it did not belong to my Department, certainly not at all at that stage of the matter, yet he wished to associate me with the Postmaster-General to the extent of having the latter feel at perfect liberty to consult me at any time about it. He said he intended to remove General Brady as soon as the Postmaster-General could find a satisfactory successor. At a subsequent interview he regretted the delay in that matter, and urged his immediate removal, as he held him principally responsible for the great frauds which he evidently was convinced had been committed.

As soon as General Brady's resignation had been demanded, his newspapers, not unnaturally, began abusing President Garfield, the Postmaster-General, myself, and everybody in any way connected with the investigation. On this subject I speak without the slightest personal warmth, for thenceforth I ceased reading them, and I only know what I have been told by others or read in other newspapers. President Garfield subsequently expressed regret that he had exposed me to such attacks by connecting me with a matter not necessarily part of my duty; but I told him that I regarded it as an honor to be abused in his company. I added the general proposition that in these days the abuse of thieves is the only decoration in our public life worth the winning or the wearing, and is the surest possible passport to the good opinion of honest men.

In this spirit and in this companionship I went on advising with the President and the Postmaster-General as occasion arose. My functions were slight and infrequent. Mr. Woodward was the special agent of the Post-Office Department, best acquainted with these frauds and most zealous in their investigation. He not only possessed the entire confidence of the Postmaster-General, but had been commended to me personally by Senator Hawley as a man of excellent judgment, and not only of undoubted but of aggressive honesty. When, therefore, Mr. Woodward thought it desirable that he should have the assistance of Mr. Gibson and the Postmaster-General coincided in that opinion, I went with the latter to President Garfield, explained the matter to him,

and received his directions to employ Mr. Gibson. When subsequently Mr. Woodward and Mr. Gibson agreed in requesting the employment of Mr. Cook, precisely the same course was pursued with the same result. Whenever they brought me any person supposed to possess knowledge of these frauds I advised him to tell the truth, and whenever I received letters suggesting sources of information I wrote to the parties indicated expressing the desire of the Government to obtain any knowledge or papers relating to the subject under their control; and whatever responses were received I, of course, turned over to the gentlemen charged with the inquiries which were progressing. I also insisted from the first and upon all proper occasions that there was no possible vindication for anybody accused except an open trial before a court and jury or a frank abandonment of the cases by the Government if the evidence did not, in the opinion of the President, justify a prosecution. That was my whole connection with the cases up to the wounding of President Garfield, except that the day before he was shot he repeated to me his efforts to have Mr. Riddle appointed district attorney of the District by President Hayes, and directed me to see Mr. Riddle, offer him the place in his name, and if he accepted it to advise him by telegraph and he would reply, asking me to request Mr. Corkhill's resignation. I wrote Mr. Riddle, asking to see him, but he did not see me until the night of the day President Garfield was wounded, and when we were expecting him to die very shortly. I then told Mr. Riddle, in one of the upper rooms of the White House, what had occurred.

As you had the best of reasons for knowing I never expected President Garfield to recover, and as I did not for a moment entertain the idea of remaining in the Cabinet after his death, I supposed such connection as I had had with the star-route cases was substantially ended, and that any further relation which the Department might have with them would devolve upon my successor. As, however, President Garfield continued to live, I continued to do whatever was needed and necessary, but nothing more. When we were considering the removal of the President to Long Branch, Mr. Corkhill asked me if I knew whether any of these cases would be ready for the grand jury. I told him I knew nothing of the details of the cases, and that of course Mr. Cook, his own special assistant in the cases, was the person to give him any information he desired.

As I felt sure the responsibility of the Government would devolve upon you at an early day, I desired to do nothing which I could avoid to embarrass or commit you or my successor. I therefore postponed the selection of leading counsel until I was assured by the gentlemen in charge of these matters that it ought to be delayed no longer. Thereupon the Postmaster-General and I met and discussed the subject. We agreed that in view of the circumstances, we ought to select from the leaders of the bar gentlemen not only of the highest ability and character, but gentlemen also whose personal and political relations would very probably be not only cordial but confidential with you and with my successor, so that you should approach these cases with every possible advantage. It was in this spirit we selected Mr. Bliss and Mr. Brewster, and with the selection of those gentlemen I considered my relation to the star-route matters as ended.

As soon as President Garfield died I informed you of my determination to leave the Cabinet as soon as you could conveniently appoint my successor, and a few days afterwards I made a public announcement of that determination. After your return from New York you kindly asked me to reconsider it, and I as kindly explained to you why I could not do so. You then decided upon my successor, and upon your assurance that he would be nominated to the Senate not later than Wednesday, October 26; I left Washington Tuesday afternoon, October 25, having made my adieus, and leaving the Solicitor-General, with your approval, in charge of the Department. On Tuesday last at the depot you explained to me why you had not been able to do as you expected, and why you had decided to leave the Solicitor-General in charge until the meeting of Congress. I really think therefore the first thing in order is your acceptance of my resignation.

And assuming that to have been done I will restate why I was convinced that it was desirable on public grounds alone. If the star-route cases are tried they must be principally tried in the District of Columbia, and the jurors must be selected from its residents. Now, in that District, I am assured, twice each week day and once on each Sunday, a newspaper is published and circulated among the people from whom the jurors are to be selected, filled with abuse of everybody connected, during President Garfield's lifetime, with these investigations. That is said to have gone on constantly as to President Garfield up to the day he was shot and as to all the rest ever since, and the influence of such a steady outpour upon a community of jurors is sure to be very great. It is very true that the New York Times in this case, as in the Tweed case, has printed very many of the records, and, with the aid of the press generally, has doubtless carried conviction to the general public; but among the public of the District of Columbia the papers, controlled by Mr. Brady and edited by Mr. Gorham and others, circulate I have no doubt greatly in excess of newspapers published elsewhere. Now, while these newspapers have been abusing me they have been as stead-

ily praising you, and to such an extent that they are sometimes foolishly mistaken for and called your organs.

Then, too, you will have observed that, both before and since I left Washington, all kinds of falsehoods concerning our relations have been published, purporting to be semi-official, and if not inspired at least not discouraged. Of course I know how absolutely untrue all this is, but it serves the purpose of leading the people of the District to suppose that you are very hostile to me, and it is useless to close our eyes to the fact that Mr. Gorham's relations with some of your most influential friends gives these pretensions very considerable weight with unreflecting people. I do not mention these tactics of the accused parties to make any complaint of them. Quite likely they were to be expected in such circumstances as have surrounded these cases. Indeed, I foresaw to some extent that such methods would be employed, and successfully, and I have therefore always believed, but never so firmly as to-day, that my remaining in office after President Garfield died, or assuming any special responsibility for these cases in any shape, would be construed, in the District itself, as notice that you were not in sympathy with the prosecutions, and that you intended President Garfield's administration and not yours should be responsible for the further conduct of them. If I had needed any additional evidence that I was right in this conclusion I would have found it in the frantic demands of the accused parties themselves that I should continue responsible, and their loud prophecies that you would not accept my resignation unless I agreed to continue such responsibility. They know, as well as you and I know, that the five gentlemen now in charge of the cases, are all that can be either usefully or beneficially employed in them, and that they will do all which can be done to bring them to a successful conclusion; but they desire to point to my supervision of them as proof that they are controlled by influences to which you are hostile. In the District of Columbia that consideration would certainly be very powerful and might be fatal.

I have written you a long letter, but it is because I recognize the gravity of the subject and because I wish you to look into my mind upon it as through an open window. In this matter, as in all others, however much I desire to oblige you, I must stand upon my own convictions of duty, and I cannot therefore do as you wish, because I believe it would be wrong. If, however, there is any other way open in which I can serve you, I will gladly do it. If you wish to satisfy yourself of the utter and shameless iniquity of these transactions by a personal examination of the records I will cheerfully come to Washington and assist the Postmaster-General in laying them properly before you. A dozen typical cases can be fully examined in a few hours. If, then, you can consistently give public expression to the conviction that the Government has been shamefully robbed, and that the men engaged in trying to bring the wrong-doers to justice have your hearty approval, you will, in my opinion, do far more towards securing a just result than is possible in any other way. Meanwhile, whatever service I can render which is calculated in my judgment to help, and not hinder, the good cause, I will gladly render without stint and without reward. I will consult and advise to the best of my ability with you or with my successor, or the gentlemen in charge of the cases, or anybody whom you may suggest, for in that way, if I am of little use, I will at least be sure I am not doing harm. And now I have given you once more my deliberate opinions upon this whole matter, and a full statement of my connection with it.

Sincerely yours,

WAYNE MACVEAGH.

Q. It has been stated in the public prints that previous to the wounding of President Garfield he had contemplated removing you, on account of the pressure brought to bear upon him by persons implicated, or supposed to be implicated in the star-route frauds. Do you know anything about that?—A. I only know that I came into the Cabinet, as I knew, and as the President was kind enough to say, of *his* choice. That is, I never allowed any zealous friends (and everybody, I suppose, has such friends) to ask the President for any appointment for me, but, on the contrary, I prevented that from being done, and took abundant means to make him know that I did not seek or desire a Cabinet place, and when he surprised me by tendering it to me, he knew, and it was perfectly and frankly understood between us, that I came because he wished me to come, and not because I wished to come. I cannot believe that he contemplated any such action as your question suggests. Of course, I can only speak of the fact that I never knew of any such intention or desire on the part of the President; but,

as it is a matter of public history, I may add that at one time I made it very easy for him to dispense with my services. He made a nomination in my Department which was irreconcilable with my sense of public duty, and it was perfectly well known at the time that, unless he could see his way to substantially change his views upon that matter, I must go out of my own accord; and I inferred from his action then that his desire was that I should remain; and the fact that I had made it so very easy for him to dispense with my services—had tendered my resignation and pressed it upon him, and that he had declined to listen to it—leads me to suppose that he would have had no difficulty in speaking to me on the subject, if he had had any wish that I should retire. But, on the contrary, the night before he was shot, when he was about to leave on his New England trip, and when I was to remain here to devote myself to the duties of my office, he was even exceptionally kind and cordial. And, in short, from the moment I entered his Cabinet until the moment immediately before his death at Elberon, I never had any reason to doubt that I had his confidence and regard to the fullest extent.

Q. You knew, of course, that there was great pressure from some source to secure your removal?—A. Undoubtedly; and at the time when I was obliged to embarrass the President in this painful manner with regard to the appointment which he had made in my Department in my absence, I suggested my resignation as a convenient way of relieving him of any embarrassment that he might experience on my account, saying that he knew that if I remained I would go straight on, and that here was a fortunate time and an easy opportunity for him, if he wanted to make a change, because it would be my own work.

Q. Did he accede to your wish about that appointment to which you refer?—A. Yes, sir; fully and unreservedly; and that induced me to remain and to suppose that he desired me to remain; and he never intimated anything to the contrary from first to last.

Q. You have every reason to believe, then, that up to the hour of his death he intended the earnest prosecution of these cases?—A. I have every reason to believe so. I have already stated that in many stages of these star-route cases they were a source of anxiety, and even of distress, to the President—inevitable anxiety and distress—from his relations to some of the parties affected, and from the political complications which arose out of the cases.

Q. When you made the statement to the President, which has been referred to here, with regard to these prosecutions changing the majority in the Senate of the United States, had you examined any evidence implicating the Senator alluded to?—A. I had not; I do not remember, exactly, that expression which you attribute to me, but it is quite likely I used it, because it was part of the common knowledge of the cases that accusations were made of a very grave character against a Senator; but I had not examined the matter, and, as I remarked, I believe, in my testimony yesterday, whatever was said upon such an occasion as that must be always taken with the qualification that there was at that time no adequate basis for a judgment as to results. It was only *possible* results that were pointed out to the President in anything that I ever said to him on that subject, and I always took abundant care to protect my own mind, as well as his, from basing any judgment as to the guilt of any party upon anything that I said.

Q. You have stated, I believe, that President Garfield desired to be fully advised as to every step that was taken in the cases?—A. Yes; and I desired to so advise him.

Q. You desired to advise him that these prosecutions might implicate a Republican Senator, and so might change the majority in the Senate?

—A. Yes, sir; I spoke of the serious political aspect of the matter. I am not sure that anything more than that was said. My recollection would not go further than to say that the general character of these accusations was stated, and the fact that they reached very high places, and the Senate was used as an illustration, to show that when we started nobody could tell where the matter would end.

Q. Do you know, as a matter of fact, whether an indictment has been found against the Senator to whom reference was then made?—A. I do not.

Q. Is it not a matter of history that such an indictment has been found?—A. I do not know; I thought it had not been.

Q. There is such an indictment pending; do you not know that fact?—A. Yes, that is so; I do know that.

Q. And do you not know that the gentleman against whom that indictment is pending was the Senator to whom you referred in that conversation with the President?—A. Yes; that is the gentleman I referred to at that time.

Q. The indictment of Mr. Dorsey, and of Mr. Brady soon after, is, of course, a matter of history?—A. Yes. I would like to say to the committee, in conclusion, that I have testified simply from general recollection of these matters, after a considerable lapse of time, and when other active pursuits have pushed them more or less out of my mind; and if it shall appear at any time that I have in any matter been mistaken (though I think it will not so appear), I shall be very glad to correct any error into which I may have fallen, or to furnish any additional information that I have, if I have any, or if any future testimony shall induce the committee to think that I have any.

Adjourned.

WASHINGTON, D. C., *March 7, 1884.*

GEORGE E. SPENCER sworn and examined.

By the CHAIRMAN:

Question. Please state your present residence and occupation.—

Answer. I reside in White Pine County, Nevada; my post-office is Osceola; my occupation is mining.

Q. You were formerly United States Senator from the State of Alabama, I believe?—A. Yes, sir.

Q. During what period?—A. From 1868 until the 4th of March, 1879.

Q. Since that time have you held any official position under the Government?—A. No, sir; except that I was one of the Government directors of the Union Pacific Railroad for a time, but I never performed any official service and there was no pay attached to the office.

Q. In the testimony of ex-Postmaster-General James before this committee the day before yesterday he stated that you had given him some valuable information with regard to frauds perpetrated upon the Government in connection with the star-route mail service; please state the nature of that information.—A. Well, I had better give you the history of my connection with Mr. James in the matter.

Early in January, 1881, I came from Nevada to New York on business. After being there a few days I met Mr. James on Broadway, and he

asked me to come up to his office—he was then postmaster of the city of New York. I did so. He told me he was anxious to go into President Garfield's Cabinet as Postmaster-General, and asked me to render him all the assistance I could. He said I could render him valuable assistance, and having known him for a number of years, and known him quite well, I told him I would do so, and I did render Mr. James a good deal of assistance in securing the position of Postmaster-General; he thought so at the time, and I thought so. After he had been appointed Postmaster-General, I said to him that he had an opportunity such as few men had in their lives to make a great reputation for himself; that he could make the Post-Office Department self-sustaining in the first year of his administration, and that the second year he could reduce letter postage to two cents. He wanted to know how it could be done; he thought it was rather wonderful. I told him by breaking up the star-route ring. He wanted to know what I knew about it. I went into rather a lengthy talk with him, telling him what I did know about it, first taking from him a pledge that what I said on the subject should be strictly confidential, and that under no circumstances, come what might, should I be known in it. I told him that I was now in private life, and did not want to play the role of an informer before the country, and that I lived in the West, and that some of the men connected with this business were almost neighbors of mine. Before doing anything about the matter I also went to President Garfield (who was then alive), and I received from him a pledge that any information I should give him on this subject should be strictly confidential, and that my name should not be connected with it.

Q. Did he give you assurance to that effect?—A. He gave me the same assurance that Mr. James had given me. It was at my suggestion that Mr. Woodward, who is now present, was selected to take general charge of the business of getting up information. I say at my suggestion, because I was in Mr. James's room in the Post-Office Department one day, when Mr. Tyner, who was then First Assistant Postmaster-General, insisted that Mr. Woodward should not be appointed to a place. He was very bitter on Mr. Woodward. He said that he had once before been in the Department, and had made a great deal of trouble, and after Mr. Tyner got through I said to Mr. James that I thought Mr. Woodward was the best man there was in the country to take hold of this matter, and Mr. James did detail him for that purpose, and Mr. Woodward had for months, and I guess has up to the present time, charge of all the papers and the taking of all the testimony. I gave Mr. Woodward the names of different people to send for, and he had the general direction of the whole investigation. During the winter of 1881, after January 1, I remained in New York at the Everett House, and I used to meet Mr. A. M. Gibson there quite often. He was stopping at the hotel, and he told me of a table of 93 routes that he had compiled, showing what the contracts were originally let for, showing how much the increase of service had been, how much expedition there had been, and how much pay the contractors were getting at that time. It was a very valuable compilation, and saved a great deal of labor. I suppose it was a week after Mr. Woodward got to work here—it could hardly have been that long—that I was passing the Western Union Telegraph office in this city and saw Mr. Gibson there. I went in and told him that I was very glad to see him; that I had been intending to look in the Directory to find out where he lived, and go to see him. I persuaded him to go with me, and we went to Woodward's room, on Thirteenth street, where Mr. Gibson gave Mr.

Woodward a general idea of his work, and afterwards brought to him the tables and other papers concerning the expedition of those routes. I remained here in Washington most of the time for about three months, giving my time and attention very largely to the getting up of evidence concerning the frauds in the star routes. A great many of them I knew much about from living in the West. It was a matter that used to be freely talked over in the far West before this investigation commenced—a matter of public notoriety.

Q. You may state the general information that you obtained with regard to increase and expedition of service and unnecessary or fraudulent mail service in the West.—A. Well, one case came under my attention at Osceola, where I was living. The Government was paying for service on that route seven times a week, and we were receiving the mail only three times a week. Until I got here to Washington, I was not aware that the Government was paying for seven times a week; but one day I went into the contract room and looked, and found out that they had been for two or three years, I think, paying for carrying the mail seven times a week, when, as I say, it was really carried only three times a week. That had gone on for quite a long time; but I will not undertake to state the length of time. That was one of the first cases that I told Mr. James about. This was before Mr. Brady was removed from the Post-Office Department, and I suggested to Mr. James that, without the knowledge of Mr. Brady, he had better send some reliable inspector out there to investigate that route. Mr. James said it was impossible that the service could be in that way. I think he talked with Mr. Brady about it—he told me he did—and Mr. Brady said, “It is no such thing; the service is being performed.” Mr. James did send Colonel Sharpe out there to inspect that route. I remember who he sent, because I read the report afterwards, and I remember that Colonel Sharpe reported the facts as I had given them.

Q. What was the amount of the original letting and the amount actually paid?—A. That I cannot tell. That ought to appear by the record; I have forgotten. It was the route from Eureka to Pioche, in Nevada. I have an indistinct recollection that there was a steal, or whatever you might call it, in that route of about \$7,000. Some time in June ex-Senator Clayton, of Arkansas, came to Washington and came to see me—I do not remember whether he came to see me or whether I met him in the street—but we met, and he said, “If this star-route investigation that is going on is in earnest, Rerdell has been to me and has told me his story, but I think Rerdell is a very bad man; I do not place any confidence in him.” And then he went on and told me the story that Rerdell had told him. I said to him, “You had better go with me and see Mr. James, the Postmaster-General, and tell him that story.” After considerable persuasion he agreed to go. Then I took him to Mr. Woodward, and he told Mr. Woodward the same story. The story, if it was true, and I had not any doubt at the time about its being true, would make a conviction positive and absolute.

Q. To what route did this information or evidence refer?—A. This evidence of Rerdell's referred to all the routes that Dorsey, Vaile, and that combination had—to their general business. Mr. Clayton took Rerdell to Mr. James's room. I did not go, because I did not want to be known in the thing; I did not want Rerdell or any one else to know that I knew anything about it. Mr. Clayton took Rerdell to Mr. James's room, and he made his full statement there. They neglected, however, to take his affidavit, and a few days afterwards Mr. Dorsey found it out in some way or another, and he persuaded Rerdell to make an other

affidavit retracting his proposed one. That made his testimony practically valueless. I remained in Washington up to the time that General Garfield was shot. By that time I had made up my mind that, beyond the reformation of the service—beyond the saving to the Government of two or three million of dollars a year—the investigation in other respects would be a failure. I made up my mind that they had accomplished one thing: that the service had been thoroughly reformed, but there was no testimony obtained by which conviction in court could be had. I left and went back to Nevada, and remained there until fall, and then came back and spent the winter in New York, and part of the time in Washington, but I paid little or no attention after that to star-route matters. I was receiving no pay in the matter, I was not employed by the Government, and the cases had passed largely into other hands from those in which they had been originally, the only man still connected with them who had been engaged from the beginning being Mr. Woodward. Mr. Bliss or Attorney-General Brewster never asked me any questions concerning the business, and I did not care to volunteer information, and paid little or no attention to it. In the latter part of March, 1882, I went back to Nevada and remained there until June. Whilst I was there the United States marshal was out there subpœnaing witnesses to come before the grand jury on cases in connection with some of the Salisbury routes. I saw the officer—somebody had told me that they were going to subpœna me as a witness; I don't remember who had told me that—but I saw the officer and asked him if he had any subpœna for me. He said he had not. I had business taking me to Boston, and I took the stage from Cherry Creek, in company with two or three witnesses who were coming to Washington. We traveled together as far as Ogden, in Utah. I came on to New York, and having been in New York about twelve hours, if my recollection serves me right—it was less than twenty-four hours—a subpœna was handed to me by Mr. Newcomb, an inspector of the Post-Office Department, to come to Washington as a witness in the Dorsey-Brady case. I felt very much incensed about it, as I thought it was bad faith on the part of the officers of the Government. I thought it was a mean trick to subpœna me at New York and not at my home, thus keeping me out of the mileage which as a witness I was entitled to; but I especially thought it was bad faith for them to make me a witness at all. I came to Washington, however, and remained here for two weeks, from the 15th of June until the afternoon of the first day of July. I stopped at the Arlington, and had a room adjoining that of Mr. Bliss. I asked Mr. Bliss for an interview. I said, "I would like to talk to you about this matter; I want to know what you want to prove by me." Said he, "I am very busy to-day; I will give you an interview to-morrow." My recollection is that that was Saturday. I asked him what time. He said, "About two o'clock; to-morrow is Sunday." I staid in the house all day, and sent my card to his room two or three times; but he kept out of his room. The next morning he apologized; he said he was very busy and had been unable to keep his engagement with me, but that he would later. It ran along for about a week, and Mr. Bliss gave me no opportunity to speak to him, unless it was in the dining-room or some public place. I went to Mr. Chandler, who was then and is now a member of the Cabinet, and told him I wanted to see Mr. Bliss, and I wished he would go with me, as I thought I was being treated in a very shabby manner. Mr. Chandler did go with me. We went to the hotel, but Mr. Bliss was not there. We went over to the President's house. As we got to the steps of the President's house we met Mr. Phillips, the President's private secretary, coming out.

We asked him if Mr. Bliss was there; Mr. Phillips said no; that he seldom came to the White House. We walked back to the hotel, and concluded we would wait for Mr. Bliss to return. About 11 o'clock he came in. This was in June—very warm weather—and we were sitting in the bar. Mr. Bliss came up to Mr. Chandler, and said, "I found your card (mine was in the box also); you want to see me." He called him "William." They went out in the passage-way, and talked there for as much as two hours. I interrupted them several times, and each time they told me that they did not want to see me—that Mr. Bliss did not want to see me. When the interview ceased, Mr. Bliss went up stairs without giving me an opportunity to speak to him. Mr. Chandler and I went out, and Mr. Chandler told me, in substance, what Mr. Bliss had said—that Mr. Bliss did not want to talk to me before putting me on the stand as a witness; that if I did not swear to what he expected I would swear to, he would ask the court for the privilege of cross-examining me; that he did not propose to have any consultation with me until I was on the stand. I remained here until the afternoon of the 1st of July. The court adjourned over the 4th of July. On the afternoon of the 1st I went to New York and called on Senator Conkling, and showed him my subpoena. Mr. Conkling turned to the Revised Statutes and said, "This is not a legal subpoena; it is an illegal subpoena; it is not in conformity with the Statutes, and the courts would so hold and decide. If I were in your place I would go off and attend to my business." I asked him if my going over to Washington and staying there two weeks had not waived my rights in the matter. He said no, that it had not; and he was very decided in telling me that there was no necessity for my staying any longer unless I chose to do so. I regarded his legal advice as very good advice, and I followed it. I went back to Nevada, and there never was a service on me after that.

Q. You did not appear at the trial thereafter?—A. I did not appear at the trial thereafter. I did not return to Washington until the United States marshal brought me here this winter.

Q. What was the defect in that subpoena?—A. It was a subpoena used in civil cases in the District of Columbia, not in criminal cases—so the judge decided. They had used the wrong blank; I suppose that was the fact about the matter.

Q. Where were you subsequently served with any process by any officer of the Government?—A. I never was served with any process on the part of the Government until the 21st day of November last, when a bench-warrant was served on me at Austin, Nev.

Q. What was the nature of that process?—A. It was a bench-warrant, a warrant for arrest.

Q. An attachment?—A. Yes; an attachment.

Q. You obeyed that service?—A. Yes; I obeyed that service, and came on here, and the case was tried before Judge Wylie and dismissed.

Q. Do you state that Judge Wylie decided that that subpoena which was served on you in New York was illegal?—A. He decided that the subpoena was not legal; that the service was illegal, and that the attachment was illegal also. He decided that all the papers in the case of every sort and description were illegal, and I was discharged.

Q. Have you a copy of the affidavit that was made in the trial of the star route cases for a continuance, on the ground of the absence of yourself as a material witness?—A. I read it in the newspapers afterwards. I might as well state here—I have to state it somewhere—that I knew no material fact of my own knowledge that would be admitted as evi-

dence in any court which would tend to convict either one of the defendants.

Q. Did you state that fact to Mr. Bliss, or to any of the counsel for the Government?—A. Mr. Bliss did not give me an opportunity to do so; but I stated it to Mr. Chandler, and he stated it to Mr. Bliss.

Q. Had you at that time seen the reports of the inspectors who had examined these routes in detail?—A. Yes, sir; I had read the large majority of them. I had read the reports of the inspectors who had been sent to examine routes up to the shooting of President Garfield. I think I had read almost every one of them. They were generally handed to me to read; Mr. Woodward, or Mr. Van Wormer, or Mr. Lyman, or some of those gentlemen, would hand them to me, and I suggested sending the inspectors to examine the principal routes. I was the first to suggest that.

Q. Is there anything further of an historical character that you desire to state?—A. I don't remember anything further that I need state, unless you draw it out of me by asking questions, which I am perfectly willing to answer.

Q. Have you read the testimony of Mr. James, given here?—A. Since I came into the room I have read it, as it has been published in the newspapers.

Q. Have you any statement to make to the committee in regard to his testimony, so far as it related to you?—A. No; except that I want to say very positively that I never saw Mr. Dorsey and Mr. Brady together in any room, and never saw Mr. Dorsey pay Mr. Brady any money. That is an erroneous statement on the part of Mr. James. He is mistaken about it in some way—mistaken about what I originally said. We have talked so much together about the star-route business, or did in the spring of 1881, that he may have got things mixed.

Q. Mr. James stated here that you had told him that, in a room in this city or in New York, you and ex-Senator Dorsey were together, when a card was sent up, and Mr. Dorsey said he would show you how he did business; do you remember that?—A. No; that is a mistake; Mr. James is mistaken about that; I never saw Mr. Dorsey and Mr. Brady together in a room in New York in my life, or in a room here; I don't know that I ever saw them together anywhere, though I may have seen them together in a public place.

Q. Do you know whether you made any statement of that kind to Mr. James or any one else?—A. I have no recollection of making any such statement, and he was certainly mistaken about what I did say.

Q. Do you remember to have made that statement to any other person, or a similar statement?—A. I do not remember to have made it at all; if I made any such statement, I must have been drunk when I made it, and I am not in the habit of getting drunk; it is not true.

Q. He said, also, that you informed him with regard to an interview you had had with Mr. Dorsey, when he explained to you the matter of Rerdell's statement?—A. Yes; that was on a Sunday in June; I don't remember the date; I think he gives the date as the 12th of June, 1881, and probably that is correct; I was sitting in my room in the Everett House in New York, and Major Clark was in the room with me, and a rap was heard on my door, and Mr. Dorsey came in; it was about 1 o'clock; as he came in he spoke to Major Clark, whom he knew, and said, "Major, I want to see Spencer alone; I wish you would go out." He had come up without sending a card; I was very much astonished; it was the first time I had seen Mr. Dorsey for some considerable period; he was very much excited and worried; he had heard that Rerdell had, as he

termed it, "gone back" on him, had turned informer to the Post-Office Department, and had tried to give up his books, papers, and memoranda. Mr. Dorsey was very much excited, and he stayed there until about 6 o'clock in the evening. Whilst he was there Mr. Elkins came to see me; that was the first time that Mr. Dorsey and Mr. Elkins had met for some months; Mr. Dorsey was very much worried and excited, and was very anxious about the matter, and he had come to see me to ask me what I knew about it; I told him I did not know anything, and if I did know anything I was so situated that I could not tell him.

Q. Then, what Mr. James stated here as to what you told him had occurred between you and Mr. Dorsey on that occasion was substantially correct?—A. Was generally correct; yes.

By Mr. STEWART:

Q. Did you make any statement to the Postmaster-General of an interview with Mr. Dorsey, where he had said anything about money, or the payment of money, or anything of that sort?—A. I do not remember to have made any such statement.

Q. Then I understand you to say that what Mr. James said you said to him on that subject is a statement made out of whole cloth?—A. I have no recollection of ever making any such statement. I certainly never saw Mr. Brady and Mr. Dorsey together in my life in a room alone, and I never saw Mr. Dorsey pay Mr. Brady any money, or give him any envelope with any money in it.

Q. Did you ever hear Mr. Dorsey say that he had paid Mr. Brady any money on account of these matters?—A. I don't remember to have ever heard him say that. I do not think I ever did. I know that Mr. Dorsey, at one time, was very bitter on Mr. Brady. Mr. Dorsey was anxious for Mr. Brady's removal from the office of Second Assistant Postmaster-General.

By the CHAIRMAN:

Q. Is there anything else that you desire to state with reference to this matter?—A. I don't know that there is anything particular that I desire to state further. I always felt that they took the most complicated case they could find to try, and I felt that they were masquerading before the public. If I had been going to take a case to try, I should not have taken the case that they took. I never could see why they should take a complicated case like that, and leave a case that was not complicated, like the Venita and Las Vegas route.

Q. Had you knowledge of other fraudulent expeditions than the one to which you have referred in your testimony, the Eureka and Pioche route?—A. I had no absolute, positive, personal knowledge that I could swear to, but, generally, I had. This was a matter of public notoriety in the West, and had been for some time.

Q. You have spoken of the Las Vegas and Venita route?—A. Yes.

Q. Who were the beneficiaries of the contract on that route?—A. I would not profess to swear to that, but my recollection is that Mr. Parker was.

Q. Was he prosecuted?—A. The records will show. I don't think anybody was prosecuted but the Dorsey combination.

Q. Do know what percentage of the expedited routes the Dorsey combination held?—A. I examined that question once, but I have forgotten the exact proportion. My recollection is that it was about 15 per cent., but I am not sure.

Q. Who were the beneficiaries of the other routes, so far as your

knowledge extends?—A. The Parkers were large beneficiaries; the Salisbury combination were large beneficiaries, and I think Sanderson was more or less. Then Kearns and Roots had some routes, though I think the contract was originally made with Chidester.

Q. Do you know who the persons were who composed those various combinations interested in expedited star routes?—A. Generally, I know who they were.

Q. Just state the several combinations as far as you know them, and the persons interested in them.—A. Well, there were the Parkers; I think there were two brothers, but I am not sure.

Q. What percentage of the expedited routes had they?—A. That I will not undertake to say. I once figured it up, but I have forgotten. There is a table which was printed at the time in the newspapers, giving the expeditions on 93 routes.

Q. So far as you know, were the prosecutions in the star-route cases confined to what is known as the Dorsey combination?—A. The prosecutions, I should say, were entirely confined to the Dorsey combination.

Q. And the Dorsey combination represented but 15 per centum of the expedited routes?—A. I would not like to swear that it was as large as that, but my recollection is that it was about 15 per cent.

Q. Who were the persons in interest in the Dorsey combination?—A. Mr. J. W. Dorsey, Mr. Vaile, Mr. Miner, and Mr. Peck.

Q. And Mr. Rerdell?—A. I don't know. He had been Dorsey's clerk; his relations were rather peculiar. I do not think he had much of an interest, but he may have had a small interest.

Q. In what combination was Mr. Bosler?—A. Mr. Bosler was a partner of Senator Dorsey in these same routes.

Q. Who constituted what was known as the Salisbury combination?—A. Mr. Gilmer and the two Salisburys—Monroe Salisbury and O. J. Salisbury—and J. T. Gilmer.

Q. Do you know where they reside?—A. Mr. Gilmer resides at Salt Lake City. I think O. J. Salisbury also resides at Salt Lake City, and Monroe Salisbury resides in San Francisco.

Q. Who constituted what was known as the Parker combination?—A. Mr. Parker, and, I believe, his brother. I do not know who his partners were. He resides at Atchison, Kans., I believe.

Q. How much of the expedited routes did the Parkers control, or were they interested in?—A. That I will not undertake to say now, but my impression is that it was about 30 or 35 per cent.

Q. How much was the Salisburys' interest?—A. About the same; I think the Salisbury interest was the largest, and Parker's the next.

Q. What other combinations were there that you have not spoken of?—A. I think the Sanderson combination was another.

Q. How much did they own?—A. I figured it up at one time, but I have forgotten; my impression is, however, that the smallest of the large interests was held by the Dorsey combination, and that it was not to exceed 15 per cent.

Q. You have spoken of still another combination?—A. There were several other small combinations; the Patricks had some routes, but I always counted them in the Salisbury combination; then there were one or two people in New Mexico that had some excessively bad routes.

Q. Who were they?—A. There was a sort of a preacher out there—I cannot remember his name just now—yes; it was J. D. Colgrove.

By Mr. MILLIKEN:

Q. Do you recollect what denomination he preached to?—A. I don't

know that I am right in saying that he was a preacher, but I got the impression that at one time he had been a preacher; I do not know to what denomination he belonged.

By the CHAIRMAN:

Q. Who else was in the combination with Colgrove?—A. I do not know whether he had a partner or not; Mr. Woodward is more familiar with that than I can be possibly.

Q. You spoke of Mr. Roots?—A. When we commenced examining that matter, my recollection is that Kearns and Roots had one route, but it was not in their name, the Black Cañon route. Did they have any other, Mr. Woodward?

Mr. WOODWARD. I think Kearns had gone out.

Q. Those combinations which you have named constituted, you say, the principal beneficiaries of the star-route contracts?—A. Those that I have mentioned constituted the principal beneficiaries.

Q. And you state that the public prosecutions were confined to the members of the Dorsey combination, which had about 15 per centum of the contracts?—A. Yes, sir; about that.

Q. Did you ever learn how it happened that Mr. Sanderson was not indicted?—A. Mr. Sanderson was originally indicted; then his name was dropped out, and I was told at the time that it was on account of his initials. I don't know the reason. There is some scandal about the reason, but I have no knowledge on the subject.

Q. What is your information as to the reason of his having been left out of the second indictment?

By Mr. MILLIKEN:

Q. Before you answer that, let me ask you if you have any information on the subject?—A. I have no information in the world that is testimony.

Q. Do you *know* anything about it?—A. Personally I do not.

By the CHAIRMAN:

Q. Do you know from others?—A. Well, as I have said, there is some gossip and scandal about it, but I do not like to repeat gossip; I don't think it is fair to people to do it.

Q. Do you know whether any money was paid by any parties that were interested in star-route contracts to secure immunity?—A. I do not.

Q. Can you give us the names of any witnesses who can throw light upon that question?—A. Now that would be very difficult to do. I cannot give you the names of witnesses that could probably throw any light upon it.

Q. Were you here during a portion of the time, or from time to time, while the so-called proceeding on information was pending?—A. Whilst that proceeding on information was pending I was in the West.

Q. Did you return here subsequent to that time?—A. I went West shortly after the shooting of President Garfield and returned late in the fall, and whilst I was West that information proceeding had been tried and the court had not sustained the information—I don't know what you call the decision legally.

Q. Did you learn anything with regard to efforts that were made to compromise the suits outside of legal proceedings?—A. I did.

Q. State what you know about those efforts.—A. I think it was Mr. Elmer (Mr. Brady's successor as Second Assistant Postmaster-Gen-

eral) who told me that an agreement had been made to compromise those cases.

Q. Did you learn the nature of that agreement?—A. Yes; I learned the nature of the agreement at that time. He told me, I think, that the larger contractors or combinations that had not been indicted had proposed to the Government that they were willing to arbitrate, and agreed that if the Government could prove that they had got any money from it that they ought not to have had they were willing to pay it back, and that there had been an arbitration agreed upon; that the Government was to select one man, and the contractors one man, and the two a third.

Q. Do you know who were selected for that purpose?—A. I think Mr. Elmer told me about it first, and told me that he was selected on the part of the Government, and Mr. Ingersoll on the part of the contractors, and the third I believe they had not at that time agreed upon. I told Mr. Elmer that if I were in his place I would have nothing to do with it.

Q. Do you know who the third party was that was finally selected?—A. I did know who the third party was, but I cannot tell you now.

Q. Was it Mr. Bliss, so far as you know?—A. I have got an impression that it was Mr. Bliss.

Q. Do you know whether that arbitration board ever met and performed any duty as such?—A. I understand that it did not. I had several talks with Mr. Elmer about it. I talked more with him than with any one else; I am under the impression that it never met and never did any duty. I think they found that it would be entirely illegal and that they could not do it. But you want to recollect this, that from the 1st of July until the 2d of November I was not in Washington, and consequently there was a long time when I did not know anything that occurred here excepting as I read it in the newspapers.

Q. Do you know who had authorized the creation of the board of arbitration?—A. No; I do not.

Q. Do you know whether it was agreed upon on the part of those representing the Government as well as those representing the contractors?—A. I suppose it was agreed to by both. The truth is that after the shooting of President Garfield I went away, and when I came back Mr. Bliss and Mr. Brewster had charge of the cases and I never knew anything of them afterwards. Those gentlemen never asked me any questions and they did not act as though they wanted to consult with me in any particular about the matter, and they never did, and consequently all I knew about it was what Mr. Woodward would tell me sometimes, or Mr. Elmer, or Mr. Lyman, and I did not trouble myself to make any inquiries; so that my actual knowledge of the matter extends only from the time when Mr. James became Postmaster-General up to the shooting of Mr. Garfield. I have no particular knowledge about it after that time. What occurred up to that time I knew very well.

Q. Have you conversed with any of the contractors or subcontractors with regard to the result of that compromise—as to whether they paid any money in pursuance of it, or of any compromise with the Government?—A. No; I have never conversed with any of the contractors on the subject, with the exception of Mr. Parker. I met him on the train some time in 1882, and he told me they were going to have such a compromise. That was after I had heard of it in Washington. It was the only time in my life that I ever saw Mr. Parker.

Q. Do you know whether any sum or sums of money were raised from

the contractors or subcontractors on account of any compromise wanted to be made with the Government?—A. No; I do not.

Q. Has any contractor informed you that he has paid any money on any account growing out of these prosecutions?—A. No; I have never talked with any of the contractors except Mr. Parker, as I have already said.

Q. Or any of the subcontractors?—A. No; but I think there are some subcontractors that might give you some information on that point if you could get hold of them.

Q. Will you furnish the committee the names before you leave the room?—A. I will give you a name privately.

Q. Did any of those subcontractors say anything to you about having been required to pay any sums of money?—A. Well, I have not talked for two years with any of the contractors or subcontractors; for three years, in fact. I have not talked with any of them since the star-route investigations commenced except, as I have told you, once on the cars with Mr. Parker.

Q. When you did talk with any of the subcontractors did they give you any information in regard to any payment they had been required to make on account of these prosecutions or growing out of them?—A. Three or four years ago the contractors and subcontractors used to talk about these things very publicly, but after the investigation commenced they quit talking, and would not talk any more, and since my connection with the matter has been known they have always been enemies of mine, and consequently have not talked with me.

Q. What did any of those contractors say with regard to the sums that they had been required to pay in connection with the prosecutions, or to get immunity?—A. It was the general understanding—I cannot give it to you in the shape of evidence now, nor I cannot tell you who told me—but it was the general understanding when this star-route investigation was going on in 1881 that they had to pay $33\frac{1}{3}$ per cent. for expedition and increase of service. However, no one ever told me that in any shape that I could swear that he told it to me or that it was a fact, but it never had any doubt in my own mind but that it was a fact. Still, I do not know it in the shape of evidence. I think Mr. Rerdell corroborated that, however, in his first statement.

Q. That was a sort of an open secret among the contractors, was it?—A. It was a sort of an open secret. It was in the air. There are a great many things, you know, in the air that you cannot grasp. It was generally talked of that any one who wanted expedition and increase of service had to pay that. The plan was this: These contracts were originally let at very low rates, with a long schedule of time. They were principally once-a-week service, with not more than two or three miles, or perhaps two miles and a half, an hour. Then the service was increased from once-a-week to three-times-a-week, or to seven-times-a-week, and then the schedule time was increased to four, five, or six miles an hour, and one route that was let originally for \$2,700 was afterwards expedited and increased up to, if my recollection serves me right, as high as \$52,000.

Q. These subsequent increases were made without advertisement, were they not?—A. Yes, sir; I think they were made without any advertisement, and it was in the air that the contractors had to pay $33\frac{1}{3}$ per cent.; but whether they did or not I do not know. I never had anybody tell me of that so that I could swear to it.

Q. Do you know how that $33\frac{1}{3}$ per cent. was to be applied?—A. Certainly not. I was not in their secrets.

Q. But you say it was understood so far as general information went that persons obtaining expedition were required to put up $33\frac{1}{3}$ per centum of the increase in order to obtain the expedition?—A. That was the general understanding when we were trying to break up this star-route ring, that that was what they were doing. I had heard it often before, and Rerdell when he made his statement confirmed that part of the general understanding.

Q. That $33\frac{1}{3}$ per cent. was to go to some person of course?—A. It was supposed to go to the Second Assistant Postmaster-General.

Q. Do you know whether the subcontractors of the beneficiaries, the principal contractors, were assessed on the amounts of their contracts with a view to the payment of that $33\frac{1}{3}$ per cent.?—A. I think they got that differently from an assessment; they would let the subcontract for so much, and then when they would get it increased they would make another bargain with the subcontractor.

Q. The subcontractor would not be required to pay anything, then, on account of the expedition?—A. Well, I say the contractor would make another bargain with the subcontractor. Mr. Jennings used to tell very fully how it was. He stated that the original contract price he got on his route was \$3,000, and after it was increased to \$52,000 he received \$28,000, and the rest was profit.

Q. Profit to the person who had obtained the contract—the principal contractor?—A. Yes; profit to the principal contractor.

Q. The principal contractor obtained the contract at a specific sum, and then got the service expedited and made a contract with the subcontractor to perform the expedited service for a stated sum, and the balance of the contract price was retained by the original contractor, who performed no service whatever?—A. Yes, sir; who performed no service whatever.

Q. Can you state what interest a gentleman named Hinds had in those contracts?—A. Mr. Hinds had no interest; Mr. Hinds was interested with Mr. Walsh in a route from Santa Fé to Prescott, and was a failing contractor, and they took his route away from him, I think.

Q. In the New York Tribune of February 12, 1876, I see a letter which is dated at Nashville, October 9, 1867, addressed to Mr. Hinds, and signed by you. Do you remember anything about that letter?—A. I might remember it by reading it. [After looking at the letter as published.] That is a letter which I wrote at that time to Mr. Hinds. He was a man who had been a captain in my regiment during the war, a man that I had a great liking for and have a great liking for to-day. He was a man who at that time had had very little experience in business, and he had come to Washington and got a large number of mail contracts in Alabama. He had employed Judge Embry, and the judge was complaining about Mr. Hinds not being able to pay him, and told me something about his having to pay something to Judge Hood, who was supposed to be a friend to Postmaster-General Randall, and on that subject I wrote that letter to Mr. Hinds. I had forgotten all about it; I did not know it ever had been published. I wrote the letter to Mr. Hinds telling him to keep his engagements. Mr. Hinds was for a number of years a mail contractor, and lost a good deal of money at it, and was finally prosecuted here once for straw bonds.

Q. Who is Judge Embry that you mention here?—A. He is a gentleman who is still here in Washington, an attorney and a very respectable man, Mr. James H. Embry. He has an office somewhere in town here.

Q. Then this letter of yours was simply advising Mr. Hinds to keep his contracts with his attorney, Judge Embry?—A. Yes, sir.

Q. Hinds was a failing contractor?—A. At that time I do not think he was a failing contractor, but it is so long ago that the matter has entirely passed out of my mind. It was long before I was in public life, you see, away back in 1867. I know I met Judge Embry and he made these complaints and I wrote to Mr. Hinds to keep his engagements with Judge Embry, whatever they were. Judge Embry told me he had done a good deal of work for Mr. Hinds here and that Mr. Hinds had not paid him as he had agreed to, and that he, Embry, had had to pay Judge Hood. Judge Hood was then a lawyer, practicing here principally in the Post-Office Department, but he has been dead several years. At that time I did not know him.

Q. You had no interest in it?—A. I had not the slightest interest in it, except writing to a young man who had just started out in life, telling him it was better for him to keep his engagements than to break them, no matter what they were; even if they were foolish engagements, to stick to them.

Q. Was there any suggestion in regard to a change in the postmaster-generalship mentioned in your letter?—A. Well, I certainly had not much to do with the Postmaster-General at that time. It is so long since I wrote the letter that I had forgotten that I had ever written such a letter; but I know I wrote to Mr. Hinds on account of what Judge Embry had said, because I was out of politics, and did not know any more, at that time, about what was going on in Washington than I know of what is going on now in Saint Petersburg. I want to say that for a number of years Mr. Hinds had been a contractor here, and I thought he had been very badly treated by the Post-Office Department; very badly indeed. I got a good deal of information myself concerning star-route cases from Mr. Hinds; perhaps more from him than from any other one individual; and I thought he had been very badly treated; and I took an interest in breaking up the star-route ring which Hinds had been fighting, as much to vindicate him as for any other one reason. I regard Mr. Hinds as an honest, square, true man; a little wild and visionary about some things, perhaps, but I thought he had been very badly treated, and I was very anxious to see some of those men who had been persecuting him come to grief, as I thought they ought to. Mr. Hinds is now living at Decatur, Ala., and you can get him as a witness at any time by sending for him. He was here a week ago but has gone home now. He is a son-in-law of Dr. Bliss.

• WASHINGTON, D. C., *March 8, 1884.*

A. M. GIBSON sworn and examined.

By the CHAIRMAN:

Question. Please state your occupation and residence.—Answer. I am a member of the bar. I reside in Washington during the winter.

Q. State whether you were employed as special counsel by the Government in the star-route cases.—A. I was, on the 22d of April, 1881.

Q. Did you hear the testimony here of Mr. James and Mr. McVeagh in regard to your appointment?—A. I heard that of Mr. James; I did not hear Mr. McVeagh's.

Q. State the circumstances which led to your employment as special

counsel in those cases.—A. Well, Mr. Chairman, what I suppose you want to know is how much I was paid and whether I earned it. On page 25 of Executive Document No. 40 you will find that I received \$5,000 for my services. Now, I will endeavor to show the committee, first, that I earned that money, and, second, that in comparison with others I was poorly paid. In 1872 I began to make a special study of the Post-Office Department, and during the years that intervened between that and 1881 I became quite familiar with the methods of business in the Department and with the parties engaged specially in mail contracts. I made it my business at each of the lettings to get the lettings on the principal routes in the Western Territories and States, and from time to time I caused my clerks to make transcripts of the allowances that were made for increased service and expedition on those routes. During the winter of 1880-'81 I was not in Washington except over Sundays and probably Mondays. In the early spring of 1881, I think about the 1st of March, I came to Washington and was here at the inauguration, and, I believe, shortly after that went back to New York. I knew nothing about Mr. James's intentions. I had met Mr. James but once, and that was at the Chicago convention. I did not see him when he came here nor for some time afterwards. I was standing in the Western Union telegraph office here one day, I think in the latter part of March, when Mr. Spencer came in and said he had been looking for me and wanted to see me. He said that there was going to be an investigation of the Post-Office Department with reference to the star routes, and he wanted to know if I would not give them some assistance. I told him I hadn't any desire to engage in it; that I had other business. He insisted, and finally I went with him to Wormley's Hotel to see Mr. Woodward. I found Mr. Woodward in a room and had some talk with him. I think at that time he had taken a statement of a man named Jennings, which, he said, was about the only thing that he had done. That resulted in my taking to Mr. Woodward quite a mass of stuff, being tabulated statements of a number of routes, from which a table of 93 routes had been made up, giving, in each case, the date of the contract, the original pay, and the subsequent increases for expedition and increased trips.

Q. Can you identify that table [showing witness a printed table of routes]?—A. That is not the table; that is a table that was subsequently made, which goes somewhat more into detail than the original table. My recollection of the amounts aggregated in that table is that they are somewhat different from this [referring to the one in the book]. Of course, you understand that these tables differ at different periods; there would be changes. For instance, there would be reductions made on a route, or there might be, possibly, some additions; this is made up as of a certain date; that one was made up as of the date January 1, 1880. I think that original table showed an increased expenditure for increased trips and expedited services of about \$2,000,000 over and above the contract price. That table caused some commotion, because it made a very remarkable showing, and that was the table that was taken to Mr. James, and to Mr. MacVeagh, and to the President. Of course, I do not know what the President said about it, but I heard what Mr. James testified to. It is a little remarkable that it should have excited so much surprise on the President's part, because I have a distinct recollection of showing him the same table in 1880.

By Mr. STEWART:

Q. Was that before the election?—A. That was before the election; in January or February, probably, 1880. Then I was asked to take

part in an investigation, and I, on account of some things which had occurred in the past, did not propose that I should be employed without the approval of the President. I made the condition that he should be advised of it and his approval obtained. While in New York I received a telegraphic dispatch to come here; I came here and met Mr. James and Mr. Woodward at Attorney-General MacVeagh's house on Rhode Island avenue, and had some talk with them there. I believe that is the first time I had met Mr. James; I am quite certain that I never called on him at the Department, nor ever made any exhibit to him of any papers or statements. The conference at Mr. MacVeagh's house lasted for some time; and subsequent to that, probably in a day or two, I called upon Mr. MacVeagh at his request at the Department, and came up with him to the Capitol, and remained here while he disposed of a case in the Supreme Court.

Mr. VAN ALSTYNE. Is all this detail material?

The CHAIRMAN. Yes. This relates to his employment.

The WITNESS. I have no desire to go into any detail.

The CHAIRMAN. The question is as to the value of Mr. Gibson's services, and he started out by saying that he had been paid \$5,000, and he is proceeding to show that it was only reasonable compensation for his services.

Mr. STEWART. Has anybody questioned the value of Mr. Gibson's services?

The WITNESS. It has been questioned.

Mr. STEWART. It was approved by the Attorney-General, and if the chairman of the committee does not question the propriety of the charge, it seems to me better not to waste any time in justifying it.

The CHAIRMAN. It was a subject of comment at the time, I remember.

By Mr. VAN ALSTYNE:

Q. How many interviews did you have with these gentlemen before you were finally employed or instructed to proceed?—A. I think two, sir.

Q. When did you receive those instructions?—A. Some time about the 22d of April.

Q. And from that time you commenced investigations in addition to those that you had been making previously on your own account into the conduct of the Post-Office Department?—A. I brought with me the result of investigations which I had made, particularly of the services for the contract term beginning July 1, 1878.

Q. And that was in substance what you had on a former occasion exhibited to Mr. Garfield while he was a member of the House?—A. I had exhibited to him the table of ninety-three routes, which was a summary of a good part of it, which gave a concise view of it.

Q. Did your summary of the 93 routes disclose the relation which Dorsey occupied to the increased pay?—A. Only as some of Mr. Dorsey's routes were included. I will state, for the information of the committee, that you cannot tell who is the real party in interest as it appears upon the books. Gentlemen who are engaged in carrying the mails do not always bid in their own name, and the contracts are not always in their own names. Therefore it requires some person who has some knowledge of people engaged in the business to know who are the real parties. A man may have half a dozen people who bid and the contracts are made of course in the name of the accepted bidder. I went to the Post-Office Department when Mr. MacVeagh told me that my services were needed, and I began and organized the investigation. Hav-

ing these exhibits already made it was a comparatively easy matter, and after some days' looking over the matter and talking it over, I recommended that a number of routes be selected and inspectors of the Post-office Department sent out to examine them, and a number of the inspectors of the Department were summoned here from different points, and I drew up the instructions for them. The object was that reliable men should go over the routes, ascertain the character of the country traversed, the number of people, approximately, at the intermediate points, and how the service was performed, whether it was carried upon horseback or buckboard, or in a stage-coach, the number of men employed, and the number of horses used. These gentlemen came here and they were furnished with these instructions, with a map of the routes, abstracts from the route books giving the terminal and intermediate points, and the various orders that had been made upon the routes, and a copy of the oath made by the contractors, and they went out to make their examinations. In the mean time the Attorney-General sent for me one day and I went up to his office. He took me to one side and said that Mr. Dorsey had made a written statement of his connection with the mail contracts, accompanied by some exhibits which had been shown to the President and to Mr. Windom (Secretary of the Treasury), and that that statement had made an impression favorable to Mr. Dorsey and that some answer had to be prepared to it, and he gave me the paper and instructed me to make an answer to it. I examined the paper. It was a very able and very ingenious statement. I began very soon to make the necessary preparations to answer it. At the same time a number of persons had been engaged in bidding for routes, usually small routes in the different States, East, North, West and South. Mr. A. E. Boone was the principal party, he having been a clerk in the Sixth Auditor's office who had subsequently engaged with Mr. Dorsey in the original bidding, and I found upon examination that these different parties had a great many routes and that there were uniformly the same bondsmen. I called upon the Postmaster-General for two inspectors to make an examination of these bondsmen and ascertain whether they had any property. Mr. Shallcross and Mr. Tidball were directed to make that examination.

Q. Who were the bondsmen?—A. Oh, there were quite a number of them. Another clerk, Mr. Finley, I set to work to make a schedule from the papers in the contract office of the number of routes and the bonds in which the same bondsmen appeared. That required a great deal of time and attention. This work ran along until the President was shot. I had made some progress on the answer to Mr. Dorsey's statement. At the same time I had taken up route 40101, from Santa Fé to Prescott, and San Antonio to Corpus Christi, and another route in Texas, which I considered the strongest cases that I had discovered up to that time, and they were prepared and made ready for such proceedings as might be determined upon. After preparing those particular cases, I was directed by the Attorney-General to prepare a general report upon the star-route service, which involved a great deal of work, examination of the work of the inspectors, as well as of all the records in the Department, and it was finished about the 1st of November. Meantime, the Attorney-General had gone with the President and the other Cabinet officers to Elberon, and I think about the 15th of September, or probably a little earlier than that, he telegraphed me to meet him there with Mr. Cook. Upon calling upon Mr. Cook I learned that he had received a letter from the Attorney-General, and that the object was to meet Mr. Bliss to confer with him. I took along the papers in

the case of route 40101, from Santa Fé to Prescott and San Antonio to Corpus Christi, and the papers in the Dorsey case. We had a two-days' conference there, and the result was a determination to proceed in the case of route 40101 by submitting it to the grand jury. Mr. Cook returned immediately to Washington for that purpose, and I was delayed a day or two longer. When Mr. Cook reached here the grand jury had been adjourned. It was then determined to proceed by *information*, the statute of the District of Columbia allowing process by *information*. The matter was examined very carefully by Mr. Brewster, and Mr. Bliss, and Mr. Cook, and Colonel Cook and myself proceeded to prepare to change the indictments into an *information*, and that was filed. In the meantime my report on the general subject of the star-route service was completed about the time Mr. MacVeagh retired. He had left very soon after the President's funeral, and he came over some time in the latter part of October or early part of November and sent for me, and I met him at Wormley's Hotel. He told me that he had come over to take formal leave of the Department and turn it over to the Solicitor-General. He asked about my report, and I told him I had practically finished it, and proposed to bring it to him. He said no, he was going out, and to make the report to the Postmaster-General by his direction, which I did. Mr. James, I believe, a little after that, went to New York and was gone some time. He returned here and remained a week or ten days to complete his annual report previous to going to Florida on a trip. I obeyed the instructions of the Attorney-General, and submitted the report to the Postmaster-General, and he directed that it should accompany his annual report to Congress. I left and went to New York.

By Mr. VAN ALSTYNE :

Q. It was published in Ex. Doc. No. 1, part 4, Forty-seventh Congress, first session?—A. Yes, sir.

By the CHAIRMAN :

Q. This is the report to which you refer?—A. Yes, sir. This had been put in type; but while I was in New York, Mr. Finley telegraphed me that there was some trouble about it, and I came back here and found that quite a tempest in a teapot had been raised about this report. It had led to some complications, to a dispute with the Solicitor-General, and to publications in the newspapers, which were inspired by officers of the Department of Justice, to the effect that I had no connection with the Department whatever, the practical effect of which was that the Department of Justice was arrayed on the side of the accused persons. Practically my connection with the cases terminated at that time. I had something to do subsequent to that with the preparation of some indictments, and appeared before the grand jury in one case.

By Mr. MILLIKEN :

Q. What date was this?—A. This in regard to the report was some time in the latter part of November.

Q. Was that the time that your services terminated?—A. My services terminated formally—I resigned some time in January, 1882, I think.

Q. What time did your services commence?—A. On the 22d of April, 1881.

Q. What did you say about the Department of Justice being on the side of the accused?—A. I said that on account of the row that was

raised about this report of mine on the general subject of the star-route service, officers of the Department of Justice caused publications to be made in the various newspapers to the effect that I had no connection with the Department of Justice, and was not authorized to make any such report; the effect of which was, so far as the public was concerned, to array the Department of Justice on the side of the accused.

Q. What do you mean by "so far as the public is concerned?"—A. The general public.

By Mr. STEWART:

Q. Do you mean to say that in the estimation of the public, or that *in fact*, the Department of Justice was arrayed on the side of the accused?—A. I mean to say that the effect of the publications was to lead the public to suppose that the Department was arrayed on the side of the accused.

By the CHAIRMAN:

Q. They were intended to have that effect on the public mind?—A. Undoubtedly they were intended to have that effect.

By Mr. MILLIKEN:

Q. Who raised this row?—A. Well, Mr. Woodward was the originator of it.

Q. What did the row consist in? What was it? What kind of a row was it?—A. Objections to the report. Mr. Bliss requested me to change the report and address it to the Solicitor-General, and to send the Solicitor-General a proof-slip of it, stating that he (Mr. Bliss) had had a conversation with Mr. Phillips, and that that was all that would be necessary. I had occasion to go to New York, and I left on the same afternoon that the proof-slip was sent to the Solicitor-General, and the chief clerk of the Department of Justice declined to receive it. That led to a correspondence between the Solicitor-General and myself; but I have no desire to go into anything of the kind here. The records of the Department speak for themselves. It resulted also in Mr. MacVeagh writing two letters, which I will put in evidence here.

LAW OFFICE OF WAYNE MACVEAGH, GEO. TUCKER BISPHAM,
402 WALNUT STREET, PHILADELPHIA,
December 2, 1881.

MY DEAR SIR: I inclose you a copy of a letter I have just written to Mr. Phillips, in reply to his request for information on the subject of your appointment, which I trust will be satisfactory.

I have not yet received a copy of the exhibits annexed to your report, but the report itself is certainly most admirable. To my mind it is a clear, forcible, *unanswerable* statement, enabling any person of ordinary intelligence to understand the origin, the methods, and the results of the star-route robbery.

In view of the appalling records they have themselves made, and of the white light in which you have placed them, so that "a wayfaring man, though a fool, need not err therein," they do well in trying to shift the public attention from them and their frauds to the men who have brought them to the notice of the honest people of the country.

For myself, it is a dull day now when the thieves or their apologists do not invent at least one new falsehood about me. As, however, I have only done my duty, they do not even annoy me.

Very truly, yours,

WAYNE MACVEAGH.

To A. M. GIBSON, Esq.

The following is a copy of the copy of the letter to Mr. Phillips inclosed with the above:

PHILADELPHIA, *December 2, 1881.*

MY DEAR SIR: It goes without saying that you could no more desire to embarrass Mr. Gibson in his work than I could. Such an idea could never enter your head about me or my head about you. The story of Mr. Gibson's appointment is briefly this: Mr. Woodward and the Postmaster-General represented to me the necessity for the constant presence at the Post-Office Department of a representative of the Department of Justice who would work in entire harmony with Mr. Woodward, and under the supervision of the Postmaster-General, in the investigation and preparation for trial of the star-route cases. Mr. Woodward recommended Mr. Gibson very warmly, and the Postmaster-General as warmly indorsed the request. Their request seemed to me to be entirely proper, and as the cases were to be tried in the District of Columbia, it seemed to me equally proper to appoint the person they desired an assistant attorney of the District. The result was that, after obtaining the approval of the President, I informed Mr. Gibson that he was appointed at the request of and for the purposes mentioned by the Postmaster-General and Mr. Woodward, and directed him to devote himself to the work in question.

I certainly supposed the usual formalities had been observed, but it seems those formalities were omitted. Mr. Gibson's appointment was, however, matter of public notoriety. It was, I feel sure, very generally published at the time, and I remember to have been told that it was made, for a considerable period, the ground of accusations in the star-route organs against the Postmaster-General and myself.

I was therefore surprised when, before leaving the Department, I learned that there was no formal record of Mr. Gibson's appointment, and I hastily wrote him the note to which you allude. That is the whole story so far as my recollection about it now serves me, but if anything else occurs to you I will be very glad to give any further aid I can to place the matter upon a proper basis.

Very truly, yours,

WAYNE MACVEAGH.

Hon. SAMUEL F. PHILLIPS,
Department of Justice, Washington, D. C.

The letter from Mr. MacVeagh to Mr. Phillips satisfied the latter, and my report was received. Mr. Phillips was simply mislead in the matter.

Q. What were the formalities which had been omitted? You were not commissioned and sworn?—A. The formality is a letter stating that you are employed.

By Mr. STEWART:

Q. If I understand you, I gather from what you say that there was some difficulty which arose between Mr. Woodward and yourself as to some point of official etiquette. Was not that about it?—A. I knew nothing of it.

Q. Do you know what Mr. Woodward's complaint was?—A. He never made any complaint to me.

Q. That is not the question whether he made any to you, but whether you know what his point was?—A. Oh, after I came back from New York Mr. Woodward complained about it, and I assured him that I had no intention whatever.

Q. I am only trying to get at the fact.—A. Oh, you are under a misapprehension if you understood me to say anything of the kind.

Q. Well, you have intimated that Mr. Woodward made some trouble about it, and the point I was getting at was that it should, in justice to him, appear that there was some difference as to some point of official etiquette.—A. I understood, but Mr. Woodward did not say to me that he thought this ought to have been a joint report. You understand that I was simply obeying the instructions of the Attorney-General to make the report. The report was read at various times to Mr. Woodward, but, as he stated, he did not understand the general purport of

it, and that may have been very likely, as he was engaged in other matters at the time.

By the CHAIRMAN :

Q. Was the first official report made to any Department of the Government in regard to these frauds?—A. Yes, sir; on the general subject.

By Mr. MILLIKEN :

Q. You said you were asked to change your report; do you mean the substance, or simply the address of it?—A. Simply the address of it. The report was addressed to the Attorney-General originally. Mr. MacVeagh leaving at that time (although his resignation had not been accepted, and the claim was made then, and for some time afterwards, that he was really the Attorney-General), and determining to close his relations with the Department, formally took leave of it, and directed the Solicitor-General to act under the statute. He stated to me the complications he was in at the time and requested me to address this report to the Postmaster-General by direction of the Attorney-General.

By the CHAIRMAN :

Q. In the preparation of this report, did you have the benefit of the reports made by special agents of the Post-Office Department to the Postmaster-General?—A. Yes, sir.

Q. Have you examined the reports that were transmitted recently to the House of Representatives, and are published in Ex. Doc. No. 100?—A. Yes, sir.

Q. Were these reports examined by you previous to making your report?—A. Such of them as were received previous to the date of that report.

Q. Your report was dated when?—A. The date of my report is the 31st of October, but the exhibits were not completed at that time.

Q. It was transmitted to Congress at the session beginning the 1st of December afterwards?—A. Yes, sir.

Q. Were the inspectors, whose reports appear in Ex. Doc. No. 100, those whose appointment you had suggested, and to whom you had given instructions?—A. Yes, sir; these gentlemen acted under my instructions. In some of the reports you will find that they refer to the instructions. They were quite minute. I directed them what to do and how to do it.

Q. State the names of those inspectors who were acting under your direction.—A. They were not acting under my direction.

Q. I mean under the instructions which you had prepared.—A. All the names are here in the document: Messrs. Stuart, Sigbold, Furay, Sharp, and Mr. Henry R. Gibson. Previous to that I had the Attorney-General detail A. B. Newcombe, an agent of the Department of Justice, and the Postmaster-General gave Mr. J. J. Hinds a commission as inspector, and they went to New Mexico and Arizona and gathered some evidence and made some reports upon routes there. Mr. Brewster Cameron was one of the inspectors.

By Mr. MILLIKEN :

Q. What led you to commence investigation of the Post-Office Department in 1872?—A. That was the time of the investigation by the House of Representatives into straw bidding. There have been two systems of fraud in the Post-Office Department of recent years; first, what was called straw bidding. A number of persons would take their stablemen, drivers, and other employés, and they would bid in the

names of those persons very low, while they would put in half-way up, and at the top, running up the scale, *bona fide* bids of their own. The proposal of the lowest bidder would be accepted. Then he would fail to make a contract and then under the law, the Department went up the scale, and if anybody came in the way they would be bought off.

Q. Did you go into that investigation by direction of any Department of the Government, or the House of Representatives, or voluntarily?—

A. Oh, I was a correspondent of the New York Sun here at that time, and I have written volumes on the subject.

Q. You did that for your paper?—A. Yes.

Q. Now, do you claim that you should have pay for your services, on account of the information which you brought to the Department which you had gathered prior to the time when the Department employed you?—A. I have no claim at all, sir. I was paid up to the 1st day of January, and I did not think it worth while to put in a bill for the remainder of the services.

Q. I did not mean that you put in any specific claim. I understand that you were paid \$5,000.—A. Yes, sir.

Q. And you claim that that was no more than just payment for the services you rendered?—A. Yes; during the time I was employed by the Department of Justice.

Q. That is what you say about it?—A. Yes, sir.

By Mr. STEWART:

Q. Irrespective of the information you brought?—A. Yes. That was *ex gratia*.

By Mr. MILLIKEN:

Q. That you gave to the Government?—A. I gave that to the Government.

By Mr. STEWART:

Q. How much of the time were you actually employed after you commenced?—A. From the 22d of April until some time in November.

By the CHAIRMAN:

Q. You gave your whole time?—A. Yes, sir; night and day, about fourteen hours a day, with Sundays also.

By Mr. STEWART:

Q. Certain cases were selected by the Department for prosecution; first, under the information, and afterwards by proceedings through the grand jury. Were those cases selected by the Department of Justice in conformity with your view and recommendation?—A. Not all of them.

Q. Were any of them?—A. There were indictments obtained in several cases which have never been tried—no disposition made of them whatever—and I think some of those I recommended proceedings in. The case which I desired to have presented to the grand jury, and concerning which I wrote to the Attorney-General urging that course, was the case of the route from San Antonio to Corpus Christi in connection with route 40101, from Santa Fé, New Mex., to Prescott, Ariz.; being a simple case involving but few details, and in which the evidence was pretty direct and positive.

Q. Who were the parties?—A. J. B. Price was the contractor.

Q. Were indictments found in those cases?—A. They were in the latter part of 1882, and I think one of them in the spring of 1883.

Q. Are they still pending?—A. Yes, sir; they are pending.

Q. Were you consulted with in reference to the indictment against Mr. Dorsey and Mr. Brady?—A. I made a report upon that subject so far as the record disclosed at that time. That was one of the subjects upon which we met at Elberon to consult about. After Mr. Bliss had examined the case there he stated that it was a case about which he had grave doubts, and was not as strong a case as he had been led to expect. And I am frank to say that I agreed with him. It was a case that involved a great many routes and a great many persons, and there was this difficulty about it: There were two parties who were mortal enemies of each other, and had no connection except such connections as are necessary in conducting the business of the Post-Office Department. The contractor is recognized through the term of service. The contract is in his name and the regulations of the Department require certain communications to be made in his name. It varies; sometimes it is the subcontractor, but the rule is the contractor. The result was that a number of persons were indicted for conspiring with each other, when in fact they had not been on speaking terms and were as separate and distinct as day is from night.

Q. Did you make any distinction between this Dorsey and Brady case and the other cases as to your judgment of the infraction of the law in the carrying out of those schemes?—A. I do not catch on exactly.

Q. Did you have any doubt about the guilt of those parties?—A. Oh, my report speaks for itself on that subject.

By the CHAIRMAN:

Q. That is the Dorsey combination?—A. Yes, sir.

By Mr. STEWART:

Q. In your conference there as counsel for the Government, was not the fact recognized, and did not that have a very important bearing upon the ultimate determination of the Department to prosecute Mr. Dorsey and Mr. Brady, that the charge against them had become public and notorious, and that Mr. Dorsey had demanded a trial; and did not that have some effect upon the officers or upon you in your conference?—A. It did not have upon me, because I insisted that the case 40101 should go on, and I succeeded in carrying my point in that, and the information was filed in that case; I insisted afterwards that that case should be submitted to the grand jury. In that I was overruled.

Q. By whom?—A. Mr. Bliss.

Q. Was any evidence submitted to the grand jury in that case?—A. No, sir.

Q. I thought you said indictments had been found in that case?—A. In a collateral case.

Q. Do you think the Government under the circumstances could very well have refused to proceed against Mr. Dorsey after what had transpired?—A. The Government was under no obligation to proceed. It is the business of the Government to take the best case it has got and try to secure a conviction.

Q. That depends. That is your judgment about it?—A. Certainly. In a series of cases like these, where it is very difficult to get a jury to comprehend a complicated system, it was the business of the Government, and those representing the Government, to take the case that was the simplest.

Q. Did the Attorney-General and the other gentlemen concur with

you in that matter?—A. Mr. Brewster gave no attention to those cases. He took Mr. Bliss' judgment.

Q. You mean to say that he gave no attention to them?—A. I mean to say that he stated to me that he must rely upon Mr. Bliss; that the duties of his office were so engrossing that he could not give matters of this kind an examination which would enable him to determine anything about them.

Q. That was after his appointment as Attorney-General?—A. Yes, sir.

Q. He was in the cases before that?—A. He was in the cases before that simply to argue as to the legality of filing an information instead of proceeding by indictment.

Q. Do you say he had nothing further to do with those cases prior to his appointment as Attorney-General except as to the legality of the information?—A. To make an argument in that case. That is all he charges for.

Q. You are mistaken about that. That is not his charge. He charges \$2,500 for his services.—A. Five thousand.

Q. No, I am speaking about the \$2,500 that he was paid under the direction of the Attorney-General. Afterwards he was allowed something else, amounting to \$5,000 altogether, before his appointment as Attorney-General, but as a matter of fact that was his service.

Q. Was he present at the conference at Elberon before the death of the President?—A. No, sir.

The CHAIRMAN. United States, debtor to Benjamin Harris Brewster to services as counsel in *United States vs. Thomas J. Brady*, in the supreme court of the District of Columbia, and in certain other matters known as the star-route cases, \$2,500; and then the next charge is "to professional services unpaid for, and incidental expenses in the star-route cases, \$2,500," making \$5,000 in all. This is the way he renders his bill. You state, however, from your knowledge that his service was confined entirely to making an argument in the information matter.

The WITNESS. Yes, sir. He may have been consulted with, however, about the Philadelphia cases. I would not speak definitely about that.

By the CHAIRMAN :

Q. When and to whom did you recommend the indictment of parties who were contractors in what was known as the Corpus Christi route, and also in the Santa Fé and Prescott route, to which you have referred?—A. Some time in the early part of 1882. It was before I resigned. I called upon the Attorney-General, Mr. Brewster, and stated to him this fact. The grand jury was in session. It was a most admirable grand jury. The foreman of it was a man of character and large intelligence.

Q. What was his name?—A. Jesse Wilson. I stated to Mr. Brewster that I had had several interviews with the foreman of the grand jury and he had stated to me that they had plenty of time to hear witnesses in other cases; that if necessary they would meet at 9.30 o'clock in the morning and sit until 4 in the afternoon, and would sit continuously; and in reference to the case of route 40101 from Santa Fé to Prescott, and these other cases (from San Antonio to Corpus Christi was the other one that I meant). I stated to the Attorney-General that the grand jury could hear witnesses in those cases and that they could go along side by side. In the case of route 40101 (from Santa Fé to Prescott) the statute of limitations was about to run. We proceeded by in-

formation originally because the statute of limitations was about to run in regard to one of the parties. Subsequently, we discovered the payment of money and that extended the statute until some time in the spring of 1882, and I was very anxious that that case should be heard by the grand jury before the statute ran. I had this personal interview with the Attorney-General and he asked me to put it in writing, which I did.

Q. Have you a copy of that writing?—A. I have, but not here.

Q. Can you furnish it for this record?—A. I can.

Q. State what was done then.—A. The case 40101 was not submitted to the grand jury. The case of the route from San Antonio to Corpus Christi was, some time in 1882, placed before the grand jury, and an indictment found, so far as A. B. Price was concerned and Thomas J. Brady; very much to my surprise, an indictment against no other person was found, although the evidence was positive and direct.

Q. Who were the other persons that were included in the recommendation for indictment or implicated by the evidence?—A. I don't know that there was any recommendation.

Q. Who were implicated by the evidence in reference to that route?—A. William Pitt Kellogg.

By Mr. VAN ALSTYNE:

Q. At that time he was still in the Senate?—A. He was.

By the CHAIRMAN:

Q. Did you call the attention of Mr. George Bliss to that case?—A. Yes, sir.

Q. State what your interview with him was in reference to bringing that case to the attention of the grand jury.—A. Well, some time while I was still at the Post-Office Department building, Mr. Bliss in looking over one of the papers connected with this case of 40101—I had prepared them all together, because in trying one case you necessarily would have had to try the others partially; I had left purposely the statement as to some matters relating to the route from San Antonio to Corpus Christi (route No. 31148) blind—Mr. Bliss in reading it over of course noticed that, as any person would who was familiar with all the circumstances. He asked me who that referred to. I wrote on a slip of paper and handed it to him, "William Pitt Kellogg." That was the first information that he had with regard to it.

Q. When was this?—A. This was some time in October, 1881.

Q. State, before you proceed, what was the original letting of that route, and how it was expedited?—A. The number was 31148, from San Antonio to Corpus Christi, 148 miles; the original time was 48 hours, two trips a week, \$2,733. It was subcontracted to J. J. Ellis for \$8,199. On August 26 four trips a week were added and the pay increased \$5,466. July 15 the running time was reduced to 29½ hours, and the pay increased \$20,204, bringing the pay up to \$28,403.

By Mr. STEWART:

Q. Was that part of the service that was discontinued by the Postmaster-General?—A. Oh, yes; this service was discontinued.

By the CHAIRMAN:

Q. What did the evidence show that the contractor who actually performed the service received for his pay; what was the profit to the beneficiaries of the contract?—A. I see here—I do not think it can be an error, either—that he sublet it to J. J. Ellis for \$8,199. That is over \$5,000 more than he was getting for it originally.

Q. That must have been the subletting on the increase.—A. No; that was the original letting. The contract went into effect July 1, 1878, the first order adding trips was made August 26, 1878; that is, one month and twenty-six days after the contract began to take effect, September 12, to the beginning of the next quarter; so that he was running at a loss the first quarter, and the addition of four trips brought it up to just about what he was paying the subcontractor.

By the CHAIRMAN:

Q. Did you explain to Mr. Bliss the evidence that was accessible in those cases?—A. It was set out in my papers. I have no papers at all. I left everything there when I left the Department, even those that I took there when I went in, and haven't seen them since. My recollection is that I set out in great detail all the circumstances connected with that route; the payment by the contractor of \$20,000. I am not positive that it is set out in writing, but my recollection is that I did so set it out.

Q. But the fact is nevertheless the same?—A. The fact is nevertheless the same, and was stated to Mr. Bliss. Mr. Price gave five drafts, known as postal drafts, drafts drawn against future pay on a route, for \$3,000 each, and he gave a note drawn by Hugh White and indorsed by Monroe Saulsbury for \$5,000.

Q. To whom were those payments made?—A. The evidence submitted to the grand jury subsequently showed that Mr. Price had given those drafts. Mr. Price himself has made an affidavit in which he swears that he gave William Pitt Kellogg the five drafts for \$3,000 each, and a note for \$5,000. Mr. Walsh testified that Mr. Kellogg gave him the drafts and the note for collection. Mr. Walsh was at that time a banker doing business at 914 F street, I think.

By Mr. MILLIKEN:

Q. That he gave them for collection?—A. Yes, sir.

Q. In behalf of whom?—A. Mr. Kellogg; one-half to be placed to the credit of Mr. Brady and one-half to Mr. Kellogg; that is the evidence. I do not state the fact as of my own knowledge; I simply state the evidence.

By the CHAIRMAN:

Q. Was that evidence brought to the attention of Mr. Bliss at the time you speak of?—A. At the time I originally speak of I did no more than write on the slip of paper, as I have stated, but subsequently it was all stated to him in great detail, not only by me, but by the witness, Mr. Walsh.

By Mr. VAN ALSTYNE:

Q. About what time?—A. Before the filing of the information, in 1881.

By the CHAIRMAN:

Q. Did he give any reason for not having indictments found in those cases at once?—A. Just let me think a moment, now. I do not know whether Mr. Walsh in 1881 stated that to him or not. I prepared a statement of what Mr. Walsh had told me, and reduced it to writing, and Mr. Walsh called upon Mr. Bliss and read it to him, and stated that that was his statement. Now, that related probably to only route 40101. What he stated to him in addition to that at that time I do not know. But while the trial of the case against Brady and Dorsey and

others was going on, Mr. Merrick called upon me. I was sick at the time, and had been for some six weeks, and the case was going on. The first day that I got out I drove down to the city hall, and I met Mr. Merrick coming out, and told him that he was or had been misled, that he didn't know what he was about, that he had taken the wrong case. I had some more conversation with him, and that evening he called upon me at my house, and I told him to send for certain papers to the Post-Office Department, which he did. Their case was about being laughed out of court, and Mr. Merrick was very much concerned about it, and he came to me again, and at his request I had Mr. Walsh brought here—not brought here—I had him come here; I wrote to him to come, and he came. Mr. Merrick told me that he had tried to get Mr. Bliss to find him or have him found, but could not succeed, and Mr. Walsh came here and met Mr. Woodward, and through Mr. Woodward arranged a meeting between himself and Mr. Merrick, as he subsequently told me.

By Mr. STEWART:

Q. When was this?—A. During the progress of the first trial of the Brady and Dorsey case.

Q. I have forgotten that date; can you state when it was?—A. The grand jury for the June term had been adjourned. It was not organized. It had been adjourned by the court until after the summer holidays, so that this was some time in June or July, 1882. The result was that Mr. Walsh, very much against his own inclination, consented to be a witness in that case, and as Mr. Merrick has informed me subsequently, and as he will tell you, saved the case from being thrown out of court.

By Mr. MILLIKEN:

Q. The Brady case?—A. Yes, sir. The Brady-Dorsey case was on trial, and I state upon general information, and upon the authority of Mr. Merrick, that their case was practically beaten; they had not been able to make out a case. They believed that the court would rule that they had not established a conspiracy and could not connect the different parties. And although Mr. Walsh had a suit then pending in the supreme court of the District of Columbia against Brady, and I was acting as his counsel, against my inclination and against his own he consented to be a witness in that case as to collateral matters not connected with the case at all. It was a great injustice to him to compel him to be a witness in that case.

By Mr. MILLIKEN:

Q. You say that his testimony saved the case?—A. Yes, sir; I have no hesitation in saying that.

Q. It did not secure a verdict, I believe?—A. No, sir; but it saved the Government the mortification of being laughed out of court.

Without concluding the examination of the witness, the committee adjourned until Monday, March 10, 1884.

WASHINGTON, D. C., *March* 10, 1884.

A. M. GIBSON recalled and further examined.

By the CHAIRMAN:

Question. When the committee adjourned on Saturday you were about to make a statement with regard to the testimony of Mr. Walsh in the trial of the star-route cases, or had you completed all that you desired to say upon that subject?—Answer. I think I had.

Q. Can you state from recollection the names of the persons who were embraced in the information proceedings against certain parties charged with frauds upon the Government in the star-route mail service?—A. Thomas J. Brady, S. P. Brown, John L. French, and William H. Turner.

Q. Was Sanderson one of them?—A. No, sir.

Q. Who advised the bringing of an information instead of an indictment against those parties?—A. At the conference at Elberon, at which Attorney-General MacVeagh, Mr. Bliss, Mr. William A. Cook, and myself were present, it was determined to proceed in the case of the route from Prescott, Ariz., to Santa Fé, N. Mex., and Mr. Cook came to Washington for the purpose of submitting that case to the grand jury. When he reached here he found that the grand jury had been adjourned; and inasmuch as the statute of limitations would run very soon as to one of the parties, as our information then was, after consideration by the Attorney-General, Mr. Brewster, Mr. Bliss, and Mr. Cook, they determined to proceed by information, and the information was accordingly prepared and filed.

Q. Were the parties you have named those who were interested in the Santa Fé and Prescott route?—A. Yes, sir.

Q. Was that the only route embraced in that information?—A. The only one.

Q. Against whom was it supposed that the statute of limitations would run?—A. Mr. S. P. Brown.

Q. When was the first indictment found in the cases?—A. The first indictments found, I believe, were against F. B. Lilley and George Brott; that is my recollection.

Q. Have those indictments been tried yet?—A. No, sir.

Q. What routes were those in relation to?—A. I do not recollect the routes.

Q. Who were those parties?—A. Fred. B. Lilley was deputy sixth auditor.

Q. Who was Brott?—A. Mr. Brott was a contractor.

Q. Was it a charge of conspiracy?—A. I think it was a charge of payment of money to an officer—I forget, though, exactly what it was. It has been quite two years ago, and I did not give much attention to it. I appeared before the grand jury, and that was all I had to do with it.

Q. Do you know why that case has not been prosecuted or disposed of?—A. I do not.

Q. What was the next indictment they found?—A. It would be better to go by the record in reference to things of that kind. Those matters are of record. My recollection is that the next indictment was that against Thomas J. Brady, Stephen W. Dorsey and John W. Dorsey, Vaile, Miner, Peck, Rerdell, and J. L. Sanderson.

Q. Those parties belonged to what was known as the Dorsey combination?—A. Yes, sir.

By Mr. MILLIKEN :

Q. Was that the indictment that was tried ?—A. No ; they were not tried on that indictment.

By the CHAIRMAN :

Q. What became of it ?—A. I don't know whether it was ever formally *nolle prosequied* or not. It was abandoned by the Government.

By Mr. MILLIKEN :

Q. Was it abandoned before or after the trial of Dorsey ?—A. It was abandoned before the trial.

Q. Do you know why ?—A. Yes ; I think I do. Mr. Ker, who drew the indictments, included Sanderson and Rerdell by their initials only, and of course they pleaded to the indictment. Sanderson did not ; he was not here ; he was here when the indictment was found and left the same evening, but Rerdell entered his plea and the case was dismissed, so far as he was concerned.

By the CHAIRMAN :

Q. On the ground that his initials only were given ?—A. Yes ; that it was not certain.

Q. And so with Sanderson ?—A. No ; there was no plea as to Mr. Sanderson's case as I recollect. There may have been.

Q. Was there any effort made to obtain a second indictment of the same parties ?—A. There was an indictment found of the same parties with the exception of Sanderson.

Q. His name did not appear in the second indictment against those parties ?—A. No, sir.

Q. Who drew the indictments ?—A. W. W. Ker. I see, October 26, Mr. Merrick charges for consultation as to new indictment which was found in No. 14336, Vaile *et al.* Rerdell was indicted by his initials only, a very curious thing, because his name in full, Montfort C. Rerdell, was in the City Directory.

Q. Was his name given correctly in the second indictment ?—A. Yes, sir.

Q. Is that the case that was tried ?—A. Yes, sir. The first time the jury disagreed and the second time they acquitted him.

By Mr. MILLIKEN :

Q. Who were the defendants in the case that was tried ?—A. Stephen W. Dorsey, John W. Dorsey, John R. Miner, Mr. Vaile, Montfort C. Rerdell, Thomas J. Brady, and William H. Turner. The case as to Turner was abandoned and Rerdell and Miner were convicted on the first trial.

Q. And as to the others the jury disagreed ?—A. Yes, sir ; and the court granted a new trial.

Q. A new trial as to all the parties ?—A. As to all the parties.

Q. Was that new trial granted upon the petition of the Government or of the parties who were convicted ?—A. The Government asked for a new trial.

By the CHAIRMAN :

Q. Who appeared before the grand jury in reference to procuring the indictments against those parties, do you know ?—A. That I only know by reputation.

Q. Did you appear ?—A. I did not.

Q. You have stated that you appeared before the grand jury in the case against Brott and Lilley.—A. Yes, sir.

Q. And did not appear in the other case?—A. No, sir.

Q. Did you appear about that time, or while you were in the service of the Government in connection with the cases, before the grand jury in any other case?—A. No, sir; I was out of the cases before the indictments against Mr. Brady and Mr. Dorsey were found. I appeared only as a witness.

Q. In what cases did you appear as a witness?—A. In the cases of Brott and Lilley.

Q. Any other cases?—A. No, sir.

Q. You did not appear before the grand jury as special counsel in the management of any of the cases?—A. No, sir.

Q. Can you explain why it was that the name of Sanderson was omitted from the second indictment?—A. No, sir; I cannot explain. I know nothing about it. He was there improperly in the first place. He had no connection with the case whatever. He had sublet a route to John R. Miner, I believe; and, as I stated to you on Saturday, when a man sublet a route he paid so much money for the contract.

By Mr. MILLIKEN:

Q. He was a subcontractor?—A. In a sense he was a subcontractor. There is no other way that you can get the routes except by a subcontract or power of attorney.

Q. He was not the original bidder?—A. He was not the original bidder.

Q. He got the contract from some one who had got it by bidding?—A. Yes, sir; but whoever the original contractor was, he had nothing more to do with the route thereafter.

Q. You say that Sanderson was improperly included in the first indictment?—A. Yes, sir.

Q. Was not that a good reason for not including him in the second indictment when that was ascertained?—A. I thought so.

By the CHAIRMAN:

Q. Why was no subsequent proceeding instituted by indictment against the parties embraced in the information?—A. That you will have to ask somebody else. It is a conundrum that I cannot answer.

Q. Was there any subsequent proceeding instituted against those parties?—A. No, sir.

Q. The information was never determined upon the merits of the case at all, but only technically?—A. It was stricken from the records.

By Mr. MILLIKEN:

Q. Was there any decision of the court as to the legality of proceeding by information?—A. There was. The court decided that the statute required proceedings of that kind to be commenced before the police court. Mr. Cook and myself proposed to proceed before the police court and follow the form prescribed by the court in its decision, but we were overruled.

Q. By whom?—A. By Mr. Bliss. We proposed to submit the same to the grand jury.

Q. Had this case that was tried already commenced when you were overruled?—A. No, sir.

By the CHAIRMAN:

Q. Do you know what the nature of the evidence was that was in possession of the Government counsel against the parties that were embraced in the information?—A. That was of record.

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Q. But I understand the information was not tried upon its merits at all.—A. No, sir.

Q. Where is it of record, then?—A. In the Post-Office Department.

Q. It was not produced in court?—A. It could not be produced in court, you know, under the ruling of the court.

Q. Did you examine that evidence that was in the Department at the time the information was filed?—A. Yes, sir; I prepared all that evidence.

Q. Did you submit it to Mr. Bliss?—A. Oh, yes, sir. It was submitted to him at Elberon.

Q. Was that evidence deemed by you and Mr. Bliss and the others who examined it sufficient to sustain the indictments on trial, or the information on its merits?—A. I do not suppose that Mr. Bliss would have consented to file an information if he had not believed it was.

Q. That does not quite answer the question. In your opinion it was sufficient?—A. Undoubtedly.

Q. What route was that?—A. From Prescott, Ariz., to Santa Fé, N. Mex.

Q. And the parties you have mentioned were those in interest on that route?—A. Those were the parties included in the information.

Q. Do you remember what was the original letting for that contract, and how it was advanced or expedited?—A. Oh, there was a double-barreled arrangement. It was originally worked up and let, and then knocked off and relet. It is a long history, which is on record in the Department, but it is more than two years since I have seen it and a long while since I have thought anything about it, and of course I cannot carry those things in my head.

By Mr. MILLIKEN:

Q. Was that route 40101?—A. Yes, sir.

Q. Was that the case you thought ought to be tried instead of the one that was tried?—A. Yes, sir; that and the cases that I spoke of as being collateral to it.

Q. Who were the defendants in that case?—A. Do you mean 40101?

Q. Yes; the one that you thought ought to have been tried.—A. S. P. Brown, Brady, French, and Turner. Brady was Second Assistant Postmaster General; Turner was chief clerk, and French was a contract clerk or corresponding clerk.

Q. It did not include Mr. Dorsey?—A. Oh, no; he had nothing to do with it.

Q. What was the other case that you thought ought to be tried?—A. The case of the route from San Antonio to Corpus Christi.

Q. Who were the defendants in that case?—A. James B. Price was the contractor, and an indictment was found against Price and Brady in 1882. In 1883 an indictment was found against Brady, and an indictment was found also against Mr. Kellogg.

Q. Who was Price?—A. The contractor.

Q. He had no connection with the Government otherwise than as a contractor?—A. No, sir.

Q. Did any other of those cases include Dorsey?—A. No, sir.

By the CHAIRMAN:

Q. Can you state from recollection or from any data you have before you, what was the amount of the original contract on the Santa Fé and Prescott route, and how much it amounted to after having been expedited? Have you the first and the last amount?—A. It was originally

let for \$13,313; three trips a week; four trips were added, the price was increased \$17,750.66, the running time was reduced, and the pay increased \$43,486.34, making total pay \$78,661.33. Then it was reduced to the original price. Then it was let at \$18,500; three times a week service. The running time was reduced, and \$39,735 allowed therefor. Four trips were added, and \$77,700 was added to the price.

Q. Making what amount at last?—A. Bringing the price up, I believe, to about \$105,000 per annum.

Q. Can you explain why proceedings in that case were not continued by indictment?—A. I cannot.

Q. Do you know of any reason why they should not have been?—A. I do not know of any reason.

Q. You were not in the service of the Government at the time they should have been proceeded in?—A. Here is a letter that I wrote the Attorney-General, which I may as well put in here as at any other place. It is dated January 24, 1882:

SIR: As I stated to you on yesterday, I deem it of the utmost importance that the case in which the information was filed should be brought before the present grand jury. You will probably recollect that that case was the *United States vs. S. P. Brown, Thomas J. Brady, John L. French, and William H. Turner*, and that the defendants were charged with having conspired to defraud the United States out of large sums of money in connection with the carrying of the mails of the United States on a long mail route, No. 40101, from Prescott, Ariz., to Santa Fé, N. Mex. It was believed at the time of filing the information in this case that the statute of limitations would run as to S. P. Brown on October 2, 1881. Since that time, however, the Government has obtained conclusive evidence to prove that Brown received a large sum of money in connection with and on account of the increase of service on mail route 40101 as late as April, 1879.

The present grand jury expires on the first Monday in March, which practically leaves but one month longer in which to accomplish a great deal of work. The case 40101 is quite simple and there are but few witnesses to be examined in connection with it. Some of those witnesses, however, are not here, and it will require a week or ten days to bring them.

There have been so many delays heretofore in organizing the grand juries and getting to work on the star-route cases, that I did not believe it would be safe to allow the present grand jury to expire without having considered the case of 40101. The statute of limitations will certainly run in Brown's case early in April, and inasmuch as two months of the present grand jury's existence has expired without any of the star-route cases being considered by it, I greatly fear that some unforeseen accident may prevent the grand jury of the March term passing on 40101 before early in April.

The case of 40101, you will recollect, was thoroughly prepared before the information was filed in September last. It unquestionably is the strongest case the Government has. I regard the evidence as absolutely conclusive as to Brady and Brown. Moreover, there are collateral cases of bribery and fraud of public officials, and perhaps other misdemeanors, which the consideration of those cases by the grand jury will develop.

I have reason to believe that delay in this case has already been very detrimental to the interest of the Government, and I greatly fear that further delay will result in the loss of witnesses whose evidence is of the utmost consequence.

The foreman of the grand jury assures me that if necessary he will cause their sessions to begin at 9.30 a. m. and continue till 4 p. m., in order to accommodate us and facilitate the hearing in any of our cases. He also assures me that they can readily have before them, as unfinished business, several cases at the same time. As the jury is a very intelligent one, I can see no reason why the consideration of the straw-bond cases, the Dorsey case, and that of 40101 could not be proceeded with at the same time.

Inasmuch as I have only been charged with the preparation of these cases and not with the duty of bringing them before the grand jury, I have not felt at liberty to take any steps in that direction. If you will direct me I will cheerfully undertake the duty, and have no doubt of the result being entirely satisfactory.

Very respectfully,

A. M. GIBSON.

Assistant Attorney for United States.

To B. H. BREWSTER,
Attorney-General.

By Mr. MILLIKEN:

Q. Did you receive any reply to that letter?—A. No, sir.

By the CHAIRMAN:

Q. Was that letter sent by mail, or was it delivered by you in person to the Attorney-General?—A. I forget.

Q. You are sure that it reached him?—A. Oh, I have no doubt of its reaching him. I either mailed it or sent it by messenger.

Q. You state in this letter that there were collateral cases.—A. Yes; that was the case of the route from San Antonio to Corpus Christi, and another route from Corpus Christi, which I forget now. It was a Texas case; it was from Indianola to Corpus Christi.

Q. That was a case, you say, which would have been developed by the testimony in this other case?—A. Yes; the grand jury could not have heard one case without bringing out evidence in regard to the other.

Q. What would have been the nature of the evidence brought out in regard to the Indianola route?—A. The payment of money by Price, the contractor, to obtain increased trips and expedition.

Q. To whom was that paid?—A. He states in his affidavit that he paid it to Mr. Kellogg. I dislike to testify about these things in this sort of way. The record in the Department shows it all.

Q. Do you refer to the reports or briefs that you made up in these cases?—A. Yes, sir.

Q. Explain what those were.—A. The brief in the case 40101, from San Antonio to Corpus Christi, and from Indianola to Corpus Christi.

Q. Did you prepare briefs in those cases and submit them to the Attorney-General or to Mr. Bliss?—A. I did.

Q. Were the statements of fact in the briefs to which you refer based upon information obtained through official sources and through the investigations instituted by the Department for the purpose of ascertaining all the facts?—A. Yes, sir.

Q. To whom did you present those briefs?—A. I forget whether I submitted them formally to Mr. MacVeagh while he was Attorney-General or not. If I did not I told him all about them. I had all of them with me at Elberon, I think. It is pretty difficult, you know, to carry in your mind the details of what occurred two years ago. I remember what I told Mr. Merrick, as I said on Saturday. He called to see me about it, and I told him to send and get the papers, and he sent and got them, and he was so thoroughly convinced of the importance of proceeding in those cases that he insisted upon having the grand jury reconvened, and wrote a letter to the Attorney-General, or at least it was published in the newspapers that he had written to the Attorney-General demanding that the grand jury should be reconvened. So far as that is concerned, I speak from what I saw in the newspapers.

Q. Did you have any consultation with Mr. Bliss with regard to instituting proceedings by indictment in the cases which you have just referred to?—A. Yes, sir.

Q. What did he say with regard to procuring indictments?—A. Oh, Mr. Bliss published in the newspapers an interview in which he said that he was not going to be forced against his judgment to take up cases; that he was acting upon his own judgment and upon his own responsibility.

Q. Where and when was that interview published?—A. It was published in the Cincinnati Commercial some time in 1882.

Q. Do you know whether the facts in relation to the cases to which

you have last referred were ever brought to the attention of the grand jury?—A. The grand jury found indictments.

Q. In which case?—A. In all except 40101.

Q. You refer to the indictments in the Corpus Christi route?—A. Yes, sir.

Q. But was any effort ever made to procure an indictment in the case 40101?—A. No; the statute of limitations ran against that case.

Q. And there were sessions of the grand jury intervening between the time of the information and the time that the statute ran?—A. I saw the foreman of the grand jury myself and gave him a copy of the information, and told him it was his duty to proceed independently of anything on the part of the Government, and he made some inquiry and was told that the Government did not want to proceed in that case.

By Mr. FYAN:

Q. I understand that the grand jury was in session at the time this letter was written in January, and the statute would not run until the April following.—A. Yes, sir.

Q. Do you know who told him that?—A. I do not.

Q. Who was the foreman of the grand jury?—A. Jesse Wilson.

Q. He was told that the Government did not want to proceed in that case?—A. Yes, sir.

Q. How do you know that?—A. He told me.

By the CHAIRMAN:

Q. You presented to him a copy of the information which set forth all the facts, and asked him to proceed independently?—A. Yes, sir.

Q. And he informed you that the Government had informed him that it was not desirable to proceed against those parties?—A. No; I did not say against those parties——

Q. Well, in that case?—A. In that case.

A. And you yourself know of no reason why proceedings were not instituted in that case?—A. No. The fact of no answer being returned to that letter of mine to the Attorney-General, and also the fact that I could get no answer to a bill which I had rendered to the Government for services, led me to write to Mr. MacVeagh. Mr. MacVeagh came here, and I saw him after he had had an interview with the Attorney-General. My bill was originally rendered for \$7,500, which Judge Black told me was one-half less than I should have asked for. Mr. MacVeagh informed me that I could only get my account settled by assuring the Attorney-General that I would resign. He said that they wanted me out of the cases, and were afraid to ask for my resignation.

By Mr. MILLIKEN:

Q. Who wanted you out of the cases?—A. The Attorney-General and Mr. Bliss.

Q. So your disconnection with these cases and your resignation were not quite on amicable terms between you and the Government?—A. Well, I called upon the Attorney-General, of course, immediately after receiving information of that kind. As soon as Mr. Brewster was nominated as Attorney-General I went to Philadelphia and saw him. I was the means of his being employed in the cases originally, through Judge Black, and I went and saw him and told him I did not want to continue in the cases at all; that I could see a great many reasons why I should not do so; that my relations with the Government would not be perhaps satisfactory to many people; and he assured me that I must remain; that they wanted me. A short time previous to Mr. MacVeagh's com-

ing here Judge Black was in Washington, and of his own motion called upon the Attorney-General, and the Attorney-General assured him that he could not dispense with my services, and would not think of doing so. Of course I was very much surprised when Mr. MacVeagh told me they wanted my resignation. I immediately called upon the Attorney-General and said to him that I would tender my resignation. He said he could not take the responsibility of accepting it. Then I wanted to know why he had told Mr. MacVeagh that if I would resign my account would be settled, and the relation would be pleasant thereafter, and so on. He asked me if Mr. MacVeagh had told me that; I said he had. Then he said he would accept my resignation of course; and I sent it.

Q. Why did Mr. Brewster, the Attorney-General, and Mr. Bliss desire your resignation?—A. I don't know, further than that it was supposed that I was not of the same politics.

Q. Of the same politics as whom?—A. The gentlemen in power.

Q. Were not gentlemen of both political parties engaged in the trial of those cases?—A. They were, but at that time I was the only one supposed to be on the other side.

Q. What were the politics of Mr. Merrick?—A. That was subsequent.

Q. Then it seems, if they wanted to get rid of you on account of your politics, that they afterwards concluded to employ other men as counsel of the same politics as yourself?—A. Well, they were rather guessing at my politics anyhow, and I think that afterwards they thought it would be well enough to have a Democrat of Mr. Merrick's standing to shoulder some of the responsibility.

Q. That is your opinion—what is it founded upon?—A. General information.

Q. Have you any knowledge about it?—A. No personal knowledge. I have stated it as my opinion.

Q. Now did the Government find any fault with you?—A. None whatever.

Q. Did anybody connected with these cases who were Government officials raise any questions as to your fidelity to the Government?—A. Not to my knowledge.

Q. Was it never intimated to you by any of them that they thought you had in any degree "given away" the cases to the other side?—A. Oh, no, not at all.

By the CHAIRMAN:

Q. What did Mr. MacVeagh say was the reason they desired your resignation?—A. Well, they wanted everybody out of the cases that had been connected with him in any way.

By Mr. MILLIKEN:

Q. Did Mr. MacVeagh say so?—A. Yes, sir; that was one of the things he stated to me.

Q. That who wanted them out?—A. The Government.

By Mr. FYAN:

Q. Do you mean that he told you that Mr. Brewster told him that?—A. Oh, no.

By the CHAIRMAN:

Q. Mr. MacVeagh, you say, was of the opinion that the Attorney-General and Mr. Bliss—A. (Interrupting.) Oh, I don't know that he said that.

By Mr. MILLIKEN:

Q. What do you mean by the Government?—

Mr. FYAN. I understood the witness in testifying on that point to state that Mr. MacVeagh came to him after an interview with Mr. Brewster and told him that he could only get his claim allowed by tendering his resignation. Now I do not know whether in that connection Mr. MacVeagh made this declaration which the witness has just stated.

By Mr. FYAN:

Q. Did Mr. MacVeagh tell you that they wanted you out and everybody else that was connected with him?—A. Yes, sir.

Q. Was it in that connection and at that time?—A. Yes, sir.

Q. Did he say it as coming from Mr. Brewster?—A. No; he did not.

Q. Did he say "the Government"?—A. He said "they." I am not pretending to give Mr. MacVeagh's exact language, but at this interview, which occurred at the Arlington Hotel in his room, Mr. Cook was present, and he will tell you the same story.

By the CHAIRMAN:

Q. What did Mr. MacVeagh say?—A. Well, he said that they had placed upon him the responsibility of approving these bills. He said, "If you will reduce your bill to \$5,000 I will approve it. I would approve it for the whole amount—I think you have earned it, but you had better get what money you can out of this, as they want you to resign—want you and Cook to resign and go out of the cases."

Q. Whom did you understand him to refer to?—A. I understood him to refer to the Attorney-General and to Mr. Bliss, who represented the Government.

Q. Did you ask him why they desired you to resign?—A. No. I knew perfectly well why they did.

Q. State, then, why they desired you to retire.—A. They wanted to manage the cases and control them themselves, and they wanted no interference from anybody else. They didn't want other people volunteering their advice; didn't want such letters as those I have read. They wanted to pursue their own course; which they had a perfect right to do.

Q. Mr. Bliss was in the cases from the time the information was filed?—A. Yes, sir.

By Mr. MILLIKEN:

Q. Had Mr. Bliss found any fault with you?—A. No, sir.

Q. Had he or the Attorney-General stated to you or given you to understand that you were an annoyance to them by interfering in the manner which you have described?—A. On the contrary they had both indicated their desire to have me remain in the cases.

Q. Then why do you say that you were dismissed?—A. Because gentlemen do not always mean what they say.

Q. Then you mean to say that the Attorney-General and Mr. Bliss, when they said to you that they wanted you to remain, simply lied?—A. I do not use that harsh language.

Mr. MILLIKEN. You may as well call things by their right names. We are not here for the purpose of smoothing things over.

By the CHAIRMAN:

Q. Have you any reason to believe that this was the result of a change of policy on the part of those conducting cases for the Government,

Mr. Bliss and the Attorney-General?—A. Mr. Bliss said that he was going to run these cases in his own way.

Q. When was it that he said that?—A. Along about that time. He did not say it to me. He said it in writing.

Q. Have you any reason to believe that there was any change in the attitude of Mr. Bliss towards you and Mr. Cook pending the proceedings?—A. Of course there was a purpose.

Q. State, if you can, when and how long you were working together harmoniously, and when, so far as you know, they changed their minds and desired you to retire from the cases?—A. Well, as long as this information was pending, until after my report was made—up to that time.

By Mr. MILLIKEN :

Q. Did you find any fault with the manner in which those cases were conducted except so far as the letter which you have put in here might be considered fault-finding?—A. I never found fault. I am not much of a fault-finder. Then, too, I had a feeling, as you do sometimes feel without much being said, which satisfied me that Mr. Bliss was going to pursue his own course in the prosecutions, which he had a right to do.

Q. Did you disagree with Mr. Bliss's course except as to the fact that you thought he ought to have tried this case, No. 40101?—A. Yes; the ground of my difference was that I thought a simple case, a case involving one or two routes at the farthest, should be selected and tried and not one involving 134 routes.

Q. That was a matter of opinion and you and the other parties, Mr. Bliss and the Attorney-General, did not agree about it. Now did you disagree in regard to any other matter? Did you disagree as to the method of trying the case that was tried?—A. I hadn't anything to do with that. I went out of the cases before an indictment was found in that case.

Q. Did you urge the Department to proceed, or not to proceed, in that case that was tried?—A. I made no recommendation about it whatever.

By the CHAIRMAN :

Q. Upon whose recommendation or advice was that case tried?—A. I was out of the cases then.

By Mr. FYAN :

Q. Did you collate the facts and make a report upon this case that was tried?—A. Yes, sir.

Q. And you submitted that to the Attorney-General?—A. Yes, sir.

Q. Your report was the basis of the prosecution, was it not?—A. You must have misunderstood me. I said I was out of the cases before the indictment was found and had nothing to do with the trial.

By the CHAIRMAN :

Q. But you prepared the evidence?—A. Yes, sir.

By Mr. FYAN :

Q. The case as presented and tried was based on the facts collated by you, was it not?—A. Partially.

By the CHAIRMAN :

Q. Why was that case that was actually tried the most complicated of the cases that came within your knowledge?—A. Because it involved one hundred and thirty-four routes.

Q. Was that the reason the indictment was so long?—A. Yes. They did not take all the routes, but they took some twenty-seven or thirty of them, and one hypothesis they proceeded upon was that due regard should be had to the productiveness of a route. That was all nonsense. That was the original law of 1792, but it was amended at various times, and by the legislation of 1851 it was wiped out entirely, and thereafter the Government had no reference whatever to the productiveness of a route. The law does not require them to have.

By Mr. MILLIKEN:

Q. But did not this case which they tried include more defendants of an important character and connected with the Government in such a way as to make their crime a more heinous one if they had committed it at all, than the case which you wanted tried?—A. No, sir. There are no degrees in heinousness. The character of the defendants had nothing to do with the matter.

Q. Did not this case which they tried include a larger number of important and prominent defendants than the others?—A. No, sir; it did not.

Q. Did it not include both Brady and Dorsey?—A. Yes; it included both Brady and Dorsey.

By Mr. FYAN:

Q. The other case included Mr. Brady and Mr. Kellogg?—A. Yes.

Q. Had Mr. French anything to do with it?—A. Yes. He was in the information. That is another case entirely. Now, if you want to get my theory about all this business, the philosophy of it, I can give it to you.

By the CHAIRMAN:

Q. Give it to us then.—A. In the first place, when this investigation began the main object seemed to be to spread out as much of it in the newspapers as possible. The result was that an expectation was created in the public mind which it was never possible to realize. Mr. Dorsey having been connected prominently with politics, made a great deal of disturbance at that time, and owing to the fact that the gentleman who became President by the death of General Garfield had presided at a banquet at Delmonico's and made a speech in which Mr. Dorsey was eulogized, the Administration felt incumbent upon itself, I suppose, to proceed against Mr. Dorsey, and I think that was the reason that case was taken and pushed.

Q. That did not preclude the possibility of proceeding in the other cases also?—A. Oh, not at all. I am not saying that that case ought not to have been proceeded with; I simply give it as a matter of judgment it should not have been tried first. Look at the time occupied in the trial. Where will you find a case in the criminal history of the world that stretched over as long a time as that?

Q. How long a time was it?—A. Well, several months.

By Mr. MILLIKEN:

Q. Is it your judgment that the Government felt compelled by public sentiment to proceed in that case because Mr. Dorsey was connected with it?—A. Yes; the question of the salary that the gentlemen who tried the case were receiving may have had something to do with it. I would not say that it had; but when men are getting as high as \$208 a day and their expenses paid, it is not in human nature to abbreviate the time; time was of the essence in that case, certainly.

By the CHAIRMAN:

Q. You have stated or intimated that counsel got as high as \$200 a day; please explain to what you refer?—A. By referring to Ex. Doc. No. 40, first session Forty-eighth Congress, page 15, I find that Mr. George Bliss got a retainer of \$2,500 on November 8, 1881; on page 21 of the same document it appears that he rendered a bill as of January 1, 1882, for \$6,000. He had been fifty days in the service of the Government up to that time, including two days making a contract with the Government at Elberon; that is, at the rate of \$170 a day. Then he charged for his expenses at the rate of $\$7.77\frac{33}{100}$ a day. On page 29 of the same document it appears that he rendered another bill of \$5,200 up to March 4, which is at the rate of \$108.75 per diem, with expenses in addition at the rate of \$8 a day.

Q. Were any of the cases tried between those dates?—A. No, sir. May 28, 1882, he rendered another bill for \$6,800 and expenses, making a total of \$7,444.55; forty-three and one-half days, at \$156.32 per day, and his expenses at the rate of \$14.82 per day; September 29, he rendered a bill of \$15,000 and expenses \$863.51; that was for seventy-one days' service in this case, being at the rate of \$211.26 per day. His expenses in addition to that were \$12.15 per diem; he rendered another bill for services between September 13, 1881, and January, 1883, for \$4,000, and for expenses, \$356.35. In that case he served thirty and one-quarter days; his per diem was at the rate of \$133.33, and expenses at \$11.86 $\frac{2}{3}$ per day.

By Mr. MILLIKEN:

Q. Can you tell, from that or any other source, the entire amount of Mr. Bliss's fee and how much it averaged per day for the whole service?—A. Probably I will before I get through.

Q. That is the gist of the whole matter.—A. I have not calculated that. To March 16, 1883, he was employed fifty-one days, making, at \$100 a day, \$5,700. He drew \$1,700 additional on the 7th of June, 1883. There was no expense account at that time. He rendered a bill November 19, 1883, for \$9,200, which is still pending. He received in all \$57,732.15.

By the CHAIRMAN:

Q. For the days he was actually employed, how much does that amount to per day?—A. The average is something over \$150 per day, I believe.

Q. Have you computed the average of his expenses?—A. Not accurately, but they run over \$10 a day.

Q. Does that \$57,732.15 include expenses?—A. Yes, sir; that includes expenses.

Q. That includes the whole amount of payments to Mr. Bliss?—A. Yes, sir.

Q. Do you know what compensation Mr. Ker received?—A. He received \$31,914.77, and all the time that he was in the employ of the Government was two hundred and thirty-four days, as his expense account shows.

Q. How much does that make his fee on an average per day?—A. About \$120 a day. He makes one of the most remarkable charges I think that anybody ever heard of. He charges for preparing the indictment in star-route cases and straw-bond cases \$10,000. On page 85, of Ex. Doc. No. 40, first session Forty-eighth Congress, appears this charge: "Preparing indictment in star-route cases, and straw-bond

cases, \$10,000." One of the indictments was thrown out, and Mr. Merrick charges for consultation in regard to——

Q. (Interposing.) What case was that that was thrown out?—A. The first indictment found in the Brady-Dorsey case.

By Mr. MILLIKEN :

Q. The one you have spoken of before?—A. Yes, sir.

Q. Does that \$10,000 constitute a part of his \$31,914.77?—A. Yes, sir.

By the CHAIRMAN :

Q. What was the nature of Mr. Ker's services to the Government?—

A. He was employed as an attorney to prepare the indictments and to assist in the trial.

Q. Was it especially with a view to the preparation of the indictments that he was employed?—A. So Mr. Brewster said—that he was an expert at that. I should judge that he was from the charge he made. Allowing him two hundred and sixty days, which is more days than he was occupied, he received \$117 per day.

Q. Did that comprise this \$10,000?—A. Yes, sir.

Q. So that without including the \$10,000 he would receive less per day, of course?—A. Yes.

Q. Is there anything else you desire to say on that point? Have you computed the whole amount paid for attorneys' fees in these cases up to the date of that report?—A. The Government paid for counsel fees, including my own, for cases in Washington, \$144,146.92.

Q. To whom were those sums paid?—A. To Mr. Brewster, the present Attorney-General, \$5,000; Mr. Bliss, \$57,732.15; Mr. Merrick, \$37,500; Mr. Ker, \$31,914.77; Mr. Cook, \$7,000, I believe, I am not certain about that; Mr. Gibson, \$5,000; total, \$144,146 92.

Q. Can you state anything about the amount of fees paid in the star-route cases in other places than Washington?—A. No, I do not know anything about that.

By Mr. MILLIKEN :

Q. You say you received \$5,000?—A. Yes, sir.

Q. Was that an exorbitant fee?—A. No; I think it was a reasonable fee.

Q. Was it any more than you would have earned in your profession by the same amount of services?—A. Oh, I would have been doing very poorly if I had not earned more money than that. I was occupied from the 22d of April until after the 1st of January; but I was not at work all the time after the 1st of December.

Q. So that whatever the Government may have done in regard to other counsel you do not think they were extravagant in paying you?—A. No; they paid me all I finally asked. I rendered at first a bill for \$7,500. I never rendered a bill for expenses, although there were some considerable expenses attending my services.

By the CHAIRMAN :

Q. You say you consulted Judge Black with regard to the value of your services?—A. I did.

Q. He was a competent judge of such services, I presume?—A. Yes, sir; he had had very large experience of the pay for such services?

By Mr. MILLIKEN :

Q. When you consulted him your bill was \$7,500?—A. Yes, sir.

Q. And he thought you had charged one-half too little?—A. Yes, sir.

By the CHAIRMAN:

Q. You have stated that you had something to do in securing the appointment of Mr. Brewster as special counsel?—A. Yes, sir; Mr. MacVeagh asked me to see Judge Black and I wrote or telegraphed him and he came here. There was some talk about employing ex-Senator Henderson, of Missouri, and different other persons, but Judge Black strongly urged the employment of Mr. Brewster.

Q. Then it was partially on the recommendation of Judge Black that Mr. Brewster was employed as a special counsel in the cases?—A. Yes, sir.

Q. Was there any employment of this kind tendered to Judge Black?—A. No, sir. I suppose he thought the Government could not afford to pay for his services.

By Mr. MILLIKEN:

Q. Do you mean Judge Black?—A. Yes, sir. I suppose he thought so at that time.

By the CHAIRMAN:

Q. He certainly would have been willing to have been retained on the basis of the fees subsequently paid?—A. Well, I do not think he ever received many such fees, although I am not quite familiar with the fees he did receive.

Q. Are you familiar with the fees charged by attorneys in important cases?—A. Yes.

Q. Do you know whether any of the persons who were special counsel for the Government in the star-route cases appeared as counsel in Washington for private individuals at the same time they were charging for services to the Government?—A. Mr. Bliss did.

Q. In what cases?—A. On behalf of the national banks.

Q. State what services he performed in that line, and at what time.—A. I do not know what services he performed. I simply know that he was attorney for the national banks, and that he appeared before the Commissioner of Internal Revenue in their behalf. The question was whether the banks should pay taxes for the fiscal year ending June 30, 1883, a question involving \$4,500,000.

Q. Under the repealing clause of the act of March 3, 1883, known as the "tariff law"?—A. Yes.

Q. You say he appeared for the national banks in that case?—A. Yes, and won his case too.

Q. That was, resisting the collection of taxes between the time the act took effect and the 1st of July thereafter?—A. Yes, sir.

Q. There was about \$4,000,000 involved?—A. I think so.

Q. Do you say that during that time he was also employed as special counsel by the Government in the star-route cases?—A. He charges for his services.

By Mr. MILLIKEN:

Q. Rendered at that time?

By the CHAIRMAN:

Q. What bill that he has rendered covers that period of time?—A. The star-route trial was going on in June, 1883. It closed some time in that month, and Mr. Bliss was employed in the star-route cases at that time.

Q. Was that the time he made the argument before the Commissioner of Internal Revenue?—A. I don't know what time he made the argument. You can get that from the Department.

Q. Is there any other fact that you desire to state in connection with your services to the Government in the star-route cases?—A. No, sir.

By Mr. MILLIKEN:

Q. Do you think Mr. Brewster's fee was a reasonable fee?—A. I think that was a reasonable fee. He came here and spent considerable time, and delivered an able argument. I think it was quite a reasonable fee.

By the CHAIRMAN:

Q. What have you to say about Mr. Cook's fee of six or seven thousand dollars?—A. Mr. Cook ought to have had more money, I thought.

Q. You did not think he was extravagantly paid?—A. Oh, no; he lost money by the operation.

Q. He could have had a fee on the other side, I believe?—A. I do not know anything about that.

Adjourned.

WASHINGTON, D. C., *March* 11, 1884.

WILLIAM A. COOK sworn and examined.

By the CHAIRMAN:

Question. Please state your name, age, and residence.—Answer. I am about fifty-nine years of age; my residence is Washington City, D. C.; my occupation is that of a lawyer, and has been since 1847.

Q. Were you employed as a special counsel for the Government in the star-route cases?—A. I was.

Q. Please state the circumstances which led to your employment, the services which you rendered, and the compensation which you received therefor.—A. Yes, sir. On the 10th of May, 1881, I received from the then Attorney-General this note:

DEAR SIR: I wish you would call here, as there is a matter about which I desire to see you.

Sincerely yours,

WAYNE MACVEAGH.

W. A. COOK, Esq., 402 *Sixth Street*.

When I called in response to this note he stated to me that it was concluded to employ me as an attorney in the prosecution of the star-route cases. I said to him that it was somewhat surprising to me, and that it would require some time for me to consult and determine what I should do. I consulted with some special friends and finally concluded to accept the position tendered by the Government. In some mode peculiar to the press it was ascertained that I had been sent for for the purpose of being placed in temporary charge of the star-route cases, and the result was that a number of the defendants personally and otherwise called upon me and desired to retain me. They offered me fees at least double any that the United States would give me; but I finally declined their offers and informed the Attorney-General that I would accept the appointment.

Q. Did they offer you a specific sum as retainer in defense of the cases?—A. Yes, sir; they did.

Q. Have you any objection to stating the sum?—A. I presume not. I was informed by one gentleman that I could obtain a retainer of \$25,000.

Q. What gentleman made that proposition?—A. That proposition was

made by Col. William P. Wood, acting for some of the defendants, whose names he did not mention at the time. I was offered money by——

Q. (Interposing.) You certainly knew whom Mr. Wood represented?—

A. Not definitely, Mr. Chairman. I did not ask him. I had a conjecture as to whom he represented. I think probably he represented all who were prominently involved, including Mr. Brady and others, at that time.

Q. Did he state the nature of the services that would be required of you?—A. It was simply a defense of those who might be indicted for star-route transactions. And I ought, perhaps, to state that, prior to that, a gentleman who is present, Mr. A. M. Gibson, called upon me and stated that there would unquestionably be an application made to me to accept service for parties who might be indicted, and that he hoped I would not accept any such engagement, at least not until I had seen him, and I did not.

The CHAIRMAN. Proceed with your statement.

The WITNESS. I received my appointment, as follows:

DEPARTMENT OF JUSTICE,
Washington, June 1, 1881.

SIR: You are hereby appointed special assistant United States attorney for the District of Columbia to aid in the prosecution of certain persons charged with being concerned in frauds on the United States in connection with what is known as the star-route investigation, at a compensation to be determined by the Attorney-General when the suits are ended. You will take the oath required of district attorneys and transmit the same to this Department.

Very respectfully,

WAYNE MACVEAGH,
Attorney-General.

WILLIAM A. COOK,
Washington, D. C.

On receiving the appointment I filed a copy in court and took the oath of office.

Now, although it is somewhat personal and perhaps egotistic, yet in view of what I may hereafter state perhaps I should say, with your permission, that when that appointment was announced the Evening Star, the character of which you all understand, published this editorial:

The selection of William A. Cook, concededly at the head of the criminal bar of the District, as special assistant attorney-general to take charge of the star-route investigation, shows that the Government means business in the prosecution of those cases.

I should perhaps also state that I had at the time a very large civil as well as considerable criminal practice. In a calendar of five or six hundred cases I had perhaps about one-seventh, and was constantly engaged in my profession. I am a Republican. In 1869 and 1870, when we elected Mr. Bowen as mayor of the city, I became the attorney of the city, and when the new government was formed I was the attorney of the District from 1871 to 1874, by which I acquired a more than usual knowledge of the citizens of the District and of their true character, which was always beneficial in the selection of jurors.

I at once entered upon consultations with Mr. A. M. Gibson, and together we arranged a plan of selecting the papers in the Post-Office Department, classifying them, obtaining reports from individuals who had been sent out to inquire into alleged accusations against different persons. The papers were largely scattered. We separated the various papers and placed them in envelopes so that they could be easily handled in an investigation. Immediately afterwards I called upon the President of the United States, Mr. Garfield. I saw him, by arrangement, early in the morning, perhaps between 8 and 9 o'clock. When it was

discovered that there would probably be a prosecution of the star-route cases a contest arose, on the one hand, to prevent that, and on the other, to press it on. That contest existed sharply, and was pressed upon the attention of the President. In the interview that I had with him he made this statement: That the case was a delicate one; that it involved many who had been his special friends; that there was no small degree of antagonism in relation to it, and that while he expected me to act chiefly under the directions of the Attorney-General, he wished me to remember that he was at the head of the nation—the President—and primarily responsible to the people, and that I should take no final action without consulting him, but from time to time to make careful and condensed reports to him of the facts, and that for that purpose he would see me at any hour. I complied with his request. When I was leaving he added that he would prefer that I should regard the conversation between us as entirely confidential and I did so.

Q. That conversation related to the star-route cases?—A. Yes, sir; exclusively. He stated that he wished me to make a most thorough, impartial, and fair investigation of all the facts, and wherever they might conduct me to go, irrespective of persons. Shortly after that, in June, before we had prepared any cases, either by information or indictment—before there had been time to do it, as you will observe, because it occurred on the 23d of June—the attorneys of Mr. Brady and others went clandestinely into court and made a motion that the court order that the cases be taken up and proceeded with at once. That was on the 23d of June, 1881. My appointment had been made on the 1st of June. It seemed, afterwards, that they had given notice on that morning to Colonel Corkhill, then the district attorney, but who had no connection with the cases whatever, and who had formally so announced. Now, in reply to their letter and motion, I made this statement in open court:

Now, if your honor please, let me say in behalf of myself, in behalf of the Attorney-General, and in behalf of my brother Corkhill, and in behalf of the President of the United States, this: They occupy, at least the President and the Attorney-General, high and dignified positions. We intend to act in harmony with them. The President of the United States has assumed this position, and it may be regarded as authoritative, if it will be pleasing to my brothers to hear it, that the investigation into supposed crimes and offenses against the postal laws of the United States must be pursued carefully, cautiously, and impartially; that no one must be presented to the grand jury for its consideration or investigation only after the most careful and thorough investigation, tending to show, when it is completed, that there has been probable crime committed. No rumors, whether in newspapers or elsewhere, must be accepted, but everything must be based upon what appears to be facts, and that in this investigation, so impartially conducted under the supervision of the President and Attorney-General, no one must be prosecuted from any personal motives; no one must be protected, on the other hand, because of any feeling of friendship, affection, or favor. Indeed, the high position of the President and the Attorney-General is this: that the United States cannot, must not, will not present any evidence before the grand jury until, after the most cool and tranquil and impartial examination, it appears to be requisite to do so to maintain the purity, the welfare, and the stability of the United States. If, after such an examination, it becomes necessary to present the most exalted citizens of the United States, or the humblest and the poorest in the walks of life, they should be equally presented.

That statement was made at the request of President Garfield, that I would embrace the earliest opportunity that might be afforded to state the true position of the administration in relation to the cases. About the time of this motion he had gone to Long Branch. In connection with James Croggin, of the Star, I sent these proceedings to him, and upon his return he approved them fully and warmly.

Q. Approved your remarks to the court as representing his views?—

A. Yes, sir. I have now placed him in his true position, so far as I was acquainted with it.

Q. This was just preceding his wounding?—A. Shortly before. This was on the 23d of June. I sent this paper to Long Branch. He had perused it there, and on his return I saw him. He sent me a message that he intended to go North in connection with the schooling of his children, and shortly afterward——

Q. (Interposing.) Before you proceed to that narrative will you explain more fully what you mean by the “clandestine” effort of the defendants to have an investigation or trial?—A. It was this: You will observe that I have stated that immediately after receiving my appointment I went into open court, Judge Cox presiding, and spread my appointment on the record, so that there was a formal record of my appointment. I then stood practically alone, except as I was connected with the case when this motion was made. Although the fact of my appointment was on record from the 2d of June no notice was given me of it at all. I was passed by, and, except for incidental information which reached me, the motion would have been taken up and presented and discussed probably in my absence.

Q. What was the object of that motion?—A. It was to compel the Government to proceed at once and carry the case before the grand jury and have it disposed of.

Q. That was the Dorsey case?—A. Yes, sir; that was the Dorsey case. In other words, its apparent object was to force the Government before the grand jury prior to its being properly prepared to present any case.

Q. How did the defendants know that you were not ready?—A. They could only infer that from the fact that I had said to some of them—said generally whenever spoken to in relation to it—that as soon as Mr. Gibson and myself had the facts in any one case thoroughly and properly prepared for presentation to the grand jury I would endeavor to lay them before it.

The CHAIRMAN. Proceed now with your statement in your own way.

The WITNESS. I proceeded at once to make myself acquainted with the cases, and devoted my time, in connection with Mr. Gibson, chiefly, in the Post Office Department and in my own office, to the case down to the time of the shooting of the President. That necessarily suspended temporarily our labors, but after the first shock had passed away, in the course of a week or two, as far as we could we renewed them and continued to prepare the cases as fully as we could for presentation to the grand jury.

By the CHAIRMAN:

Q. How many interviews had you with the President prior to the shooting?—A. I think four.

Q. Was Mr. James, the Postmaster-General, with you at any of these interviews?—A. At one of them.

Q. Which one?—A. The one immediately preceding the shooting of the President.

Q. When was that?—A. That was on Wednesday prior to the shooting.

Q. Can you state what occurred at that interview?—A. The President had sent me a message—whether he had sent it to others or not I do not know, nor do I remember at present by whom—that he was about to leave the city, and that prior to doing so he would be glad to have a

report of the progress that was being made in the cases. The arrangement was to meet him on Monday night, and I started for that purpose, but an exceedingly violent storm arose and the horses in the carriage became unmanageable and travel became impracticable, so that I was compelled to postpone it. It was then followed by the arrangement for Wednesday; and I presume that, in that connection, I might as well state as well as I recollect what occurred at that interview. When we called at the White House we were informed that the President was upstairs, and that some persons were with him; who they were was not stated—certainly not in my hearing. In a short time he came down stairs and had an interview with us in a private room. He inquired in relation to the cases; what progress was being made. I stated to him then in brief what had occurred, and that in view of the complicated nature of the facts and the ramifications of the inquiries necessary to arrive at fair and correct conclusions, I believed the cases had made as rapid progress as was possible. He expressed himself satisfied. There was then some desultory conversation, and prior to leaving I said to him that I ought perhaps to suggest that he should be careful of his movements; that, as had been developed by the bitterness of the press favorable to those who were denominated star-route men, in connection with the excitement growing out of the antagonism between the “Stalwarts” and the “Half-breeds,” that there was an exceedingly bitter feeling prevailing, and that there were connected with these cases men of violent temper and disposition, men of extreme training and character, and that I feared there might be a resort to violence; at least that such was the impression on my mind, and that I made the suggestion accordingly. It seemed to touch him but for a moment, as appeared by a nervous or spasmodic change of his position, and he responded and said that he apprehended that there was no danger.

Q. Did you state whether any others than himself were in danger?—

A. I stated that such was the bitterness of feeling that it would not be surprising to me if that feeling should carry itself out against others; against the Postmaster-General and against the Attorney-General. I do not think I used the language which it seems has been placed on my lips by Mr. James, but I did make the suggestion to the President substantially in the form in which I have mentioned. And there was an intense and bitter feeling; more so, perhaps, than the gentlemen of the committee are able now to form any conception of.

Q. Had you in your mind any particular act of violence which you suggested might be perpetrated?—A. No, sir. The idea that I had was this: That the feeling of bitterness and vindictiveness was so strong that it might operate upon the minds of some of those involved, or some of their associates or friends, to an extent that would lead to violence; or that it might assume the form of a resort to desperate and usual actions.

Q. Have you completed the statement that you desired to make?—

A. I presume that I have substantially completed that statement.

Q. Do you know whether any efforts were made after the assassination to discover whether Guiteau had accomplices?—A. There were, so far as I know, no decided or vigorous efforts. I accompanied the district attorney to his office when witnesses who were supposed to have been present at the shooting of President Garfield were first taken there, and I strongly suggested that line of investigation. I went further; I addressed a letter to the Attorney-General, and proposed to him to participate, with his sanction, in the prosecution of Guiteau without

compensation. I stated that I felt it to be my duty, in view of my relation to the star-route cases and to the President, to do so. In a little while the line of investigation which would have conducted to a development of the assumption which existed for some time that Guiteau had, directly or indirectly, quietly or otherwise, associates, was dropped, and the prosecution of Guiteau was conducted upon the assumption that he alone was responsible for his act.

Q. Had you at that time any reason to believe, or did you believe, that any persons who were interested in the star-route contracts had instigated him to commit this act?—A. The inference that I drew originally from all the facts and circumstances, and from knowledge that I had of the intense feeling which existed in connection with the star-route prosecutions, was that the shooting of the President was not the result of the individual action of Guiteau. I have never become fully satisfied that that assumption was incorrect.

Q. Just state what was the substance of the letter which you sent to the Attorney-General on that subject.—A. I stated to him in substance that in view of the fact that I had been engaged in the prosecution of the star-route cases and had been selected in connection with him and the administration for that purpose, I felt it was a duty that I owed to the administration and the country to tender my professional services without compensation, so that there might be a full, free, unqualified, and unlimited investigation into the cause of the shooting.

Q. Did you receive any answer to that?—A. I never did, excepting a statement, I believe, that emanated from him on one occasion that President Arthur had determined to select others to prosecute the case, and some special friends of his, one a gentleman from New York.

Q. Can you state any facts which led you to believe that Guiteau had accomplices?—A. Yes, sir. The first fact was that I could not conceive it possible that he had been in the city of Washington for a considerable time, as I ascertained he had, been without forming any associates or acquaintances; that he could not have been here as a hermit; that he necessarily, in the nature of the human mind and the human organization, must have acquired some associates or acquaintances. I think so still. In addition to that, the act was so bold and daring, and at the same time so cowardly, that it seemed to me it would not be attempted by any one without associates. In the next place, it was in harmony with what I had suggested to the President in relation to the bitterness of feeling that prevailed in connection with the star-route cases, aggravated by the bitterness between the Stalwarts and the Half-breeds. And perhaps I may be allowed to say that I am and was a Stalwart. In the early part of the investigation into the shooting there were parties who came to my office and stated that Guiteau had been in one or more establishments seeking a pistol, and that he had been accompanied by two or three persons. I had an affidavit made to that effect. I believe that the party who made it is still of the belief that he was when he made the affidavit.

Q. Who was it that made that affidavit?—A. The name for the moment has passed from my mind. He was a second-hand clothier on Ninth street, and a dealer in pistols and weapons. It was Herzog.

Q. His affidavit was with reference to parties who called with Guiteau?—A. Yes, sir; to a call of Guiteau, in company with two or three other persons.

Q. Did he name those persons?—A. He did not know them. He described them.

Q. Did you have any reason to believe that they were persons that

were in any way connected with the star-route defendants?—A. I had no information on that subject to lead me to that conclusion except the affidavit and search for a pistol and the description given by Mr. Herzog.

By Mr. VAN ALSTYNE:

Q. What became of that affidavit?—A. My recollection is that I passed it over into the hands of the district attorney.

By the CHAIRMAN:

Q. Did the description given in this affidavit lead you to believe that they were persons connected with the star-route cases?—A. No, sir. He was well acquainted in the city, but they seemed to be unknown persons to him. Now, I have given you as frankly as I can the inner feelings of my mind on the subject in connection with some of the facts and circumstances. My views may have been erroneous, and they may not have been.

Q. Did you have any conversation with Colonel Corkhill in regard to this line of investigation?—A. I had.

Q. Did you suggest to him that an investigation would develop the fact that the star-route defendants were the instigators of this crime?—A. I may not have spoken of the "star-routers," as we called them, but I suggested to him strongly that an investigation might lead to the discovery of the fact that others were associated with Guiteau in the perpetration of the crime.

Q. But you say that line of inquiry has never been pursued.—A. I do not think it has ever been pursued earnestly. Immediately after Guiteau was incarcerated, to use the expression, he was taken charge of by the district attorney and the local authorities, and no one at all, or perhaps very few, were allowed any interviews with him, except through them.

By Mr. MILLIKEN:

Q. Was there any declared purpose by the parties who took charge of him for so doing?—A. Nothing beyond this, that they were satisfied that the shooting was his individual act. That was all.

By Mr. VAN ALSTYNE:

Q. And you were of the contrary opinion?—A. I was of a contrary opinion.

Q. Did you arrive at that opinion from facts that you had learned in interviews with persons interested in the defense of the star-route cases before you entered into the employment of the Government?—A. Shortly after I entered into the employment of the Government I unquestionably formed the idea that there was a bitter and a reckless feeling on the part of those involved in the star-route investigations. It was so bitter in words, and so bitter in print, so bitter socially, that I was impressed with the idea that it might be carried into corresponding practice.

By Mr. MILLIKEN:

Q. Was that bitterness against the President?—A. It included him in part; indeed all actively engaged on behalf of the Government.

Q. Did you get any intimations, or threats, or hints from the "star-routers" that led you to the conclusion to which you came?—A. No, sir; because they ceased to converse with me, and of consequence assailed me as well as others with every conceivable epithet when they failed to secure my employment for them.

The CHAIRMAN. Proceed with your statement.

The WITNESS. Yes, sir. If the committee will permit me I should like to make a remark with reference to sections of the law regulating the appointment of special attorneys, with the view to giving clearness to some of my subsequent statements. The first section, 359, is in these words:

Except when the Attorney-General in particular cases otherwise directs, the Attorney-General and Solicitor-General shall conduct and argue suits, writs of error, and appeals in the Supreme Court, and suits in the Court of Claims in which the United States is interested, and the Attorney-General may, whenever he deems it for the interest of the United States, either conduct and argue any case in any court of the United States in which the United States is interested, or he may direct the Solicitor-General or any officer of the Department of Justice to do so. The Attorney-General may require any solicitor or officer of the Department of Justice to perform any duty required by the Department, or any officer thereof.

Section 363 reads:

The Attorney-General shall, whenever in his opinion the public interest requires it, employ and retain in the name of the United States such attorneys and counsellors at law as he may think necessary to assist the district attorneys in the discharge of their duties, and *shall stipulate with such assistant attorneys and counsel the amount of [their] compensation*, and shall have supervision of their conduct and proceedings.

You will observe that in my appointment it is stated that the compensation was to be fixed at the termination of the suit. I suggested to Mr. MacVeagh that it would be proper in all cases, I thought, before I entered upon the duties of the appointment, for him to fix the salary or compensation. He interpreted the law differently. The result was that I entered upon it without any arrangement for compensation.

The other section is 365:

No compensation shall hereafter be allowed to any person besides the respective district attorneys and assistant district attorneys for services as attorney or counsel to the United States, or to any branch or department of the Government thereof, except in cases specially authorized by law, and then only on the certificate of the Attorney-General that such services were actually rendered, and that the same could not be performed by the Attorney-General or Solicitor-General, or the officers of the Department of Justice, or by the district attorneys.

I supposed, too, that there ought to have been such a certificate, and I desired that.

Section 366 reads:

Every attorney or counsellor who is specially retained under the authority of the Department of Justice to assist in the trial of any case in which the Government is interested shall receive a commission from the head of such Department as a special assistant to the Attorney-General or to some one of the district attorneys, as the nature of the appointment may require, and shall take the oath required by law to be taken by the district attorneys, and shall be subject to all the liabilities imposed upon them by law.

The question arose in relation to the appointment which I received, which was vague in its terms, whether it made me an assistant to the district attorney or whether it created me as an assistant to the Attorney-General; and that remained an open question, and subsequently involved the case in considerable difficulty. The district attorney assumed the position that I was only an assistant to him, and as such had no authority to go before the grand jury.

Q. You mean Mr. Corkhill?—A. Yes, sir. When Mr. Bliss came into the case he also assumed that position. I had prepared cases to be laid before the grand jury. The result of the views entertained by the two, and which prevailed temporarily, was that I was not allowed at any time to go before the grand jury. What may be the nature of the appointments of Mr. Bliss and Mr. Ker and others I do not know, but

subsequently Mr. Bliss, as well as Mr. Ker, changed his views and went himself before the grand jury to the exclusion of the district attorney. Why that was is conjectural. It deprived me of doing what would have been done, and of finding indictments, not only against Mr. Brady and Mr. Dorsey and others, but with the assistance of Mr. Gibson, against other of the prominent star-route contractors.

Q. In what other cases would you have recommended indictments?—

A. I cannot call them all up here now. There was the Salisbury case; there was the Parker case; there were Roots & Kearns, and a number of others.

Q. The San Antonio and Corpus Christi route, there was that case?—

A. Yes, sir.

Q. And the Santa Fé and Prescott route and the Indianola route?—

A. Yes, sir; there was quite a number. Mr. Gibson's plan and mine of preparing the papers was to separate them so that we could present clearly and intelligently to the grand jury almost any one of the cases independent of others; that is, against any one of the contractors in connection with post-office officials.

Q. Please explain to the committee the nature of the evidence compiled upon which indictments might have been found against the various combinations of contractors to which you have referred.—A. The evidence consisted chiefly, apart from the papers in the Post-Office Department, of reports of special inspectors who had been sent out into various localities to ascertain the nature of the various routes, the mode in which the services were performed, and the necessity for the number of men and horses that were employed upon them. The reports were transmitted to the Post-Office Department and carefully examined.

Q. Did you examine those reports yourself?—A. I examined a number of them. I did not examine them so fully as Mr. Gibson did, but I examined them sufficiently to satisfy me that there was a primary cause made out against various parties, while I was by no means satisfied that it was conclusive of guilt. It remains a fact that no special attempt was made to procure any indictments against any, but what was called the Dorsey combination.

Q. That is the case that was actually tried?—A. The case that was actually tried.

Q. What percentage of the fraudulent contracts did that Dorsey combination embrace?—A. I could not definitely state the percentage. It was relatively but small.

Q. Fifteen per centum was stated by Mr. Spencer.—A. Well, that was pretty nearly accurate, but I could not state it with exactness without calculation.

Q. How many of these contracts, and what per centum as to amounts were held by the Salisbury combination?—A. They held a very large percentage; but just what it was I could not tell. Mr. Gibson is more accurately posted on that subject than I.

Q. Can you state in regard to the other combinations?—A. I could not tell the exact percentage. The contracts held by them were large and valuable. That general statement I can safely make.

Q. State what interviews you had with Mr. Bliss or Mr. Corkhill in regard to procuring indictments against others than members of the Dorsey combination contractors.—A. An explanation will perhaps best answer that question. Mr. Corkhill had stated openly in court before Mr. Bliss and Mr. Brewster became connected with the cases, that he had nothing whatever to do with them. That was the fact. Whether correctly or incorrectly, justly or unjustly, Mr. Corkhill had not the confidence

of the Department or of the Administration, and it was commonly supposed that he was under the influence of persons connected with the star-route cases, or to use an expression that was more or less current at the time, that they had "a corner" on him. The result was that I never had any consultations with him—I purposely, acting under instructions, declined to have any.

Q. When was this time to which you now refer, when this distrust of Colonel Corkhill prevailed?—A. From my first connection with the cases until it ceased.

Q. When was it that he announced in the court that he would not have any responsibility for the prosecution of those cases?—A. That was probably some time in June.

By Mr. MILLIKEN:

Q. Which administration had no confidence in Colonel Corkhill, Garfield's or Arthur's?—A. The Garfield administration, and when Mr. Bliss first came in he apparently had none, for he contemplated the removal of Mr. Corkhill.

Q. Now, please explain your efforts to secure indictments against those other parties.—A. Those efforts consisted in the careful preparation of the facts and papers as fully as possible, and getting them in a condition and order so that when the time arrived they could be intelligently presented to the grand jury.

Q. Were you in the cases when the information was filed?—A. I was; and chiefly prepared the information.

Q. What combination of contractors did that information embrace?—A. That embraced Messrs. MacDonough, Brown, Brady, and French. In my original plan it embraced also John A. Walsh, but it was suggested, and probably wisely, that Mr. Walsh would be more valuable to us as a witness and as an informer, than as a party to any information or indictment, and that suggestion was adopted.

Q. Then his name was not included in the information?—A. I included it in my original draft of an indictment, but upon fuller consultation, if I remember correctly, with the Attorney-General and Mr. Gibson and others, it was concluded that it would be better to omit his name and use him as a witness.

Q. What was done, if anything, after the information failed to procure indictments against the parties who were embraced in the information proceedings?—A. The information was decided in November, 1881. When the President was removed to Elberon I was called there, and the consultation there occupied my time considerably, and on my return I found that the grand jury had been discharged.

Q. What session of the grand jury was that?—A. That must have been the June term of the grand jury.

Q. How long had it been in session when it was discharged?—A. But a very short time.

Q. How many days was it in session?—A. I think, if I remember correctly, it was in session only a day or two. It had only organized, according to my best recollection, and was adjourned from the 14th of September until the 3d of October, only remaining in session two days. I left Elberon and returned to Washington for the purpose of laying some of the cases before the grand jury (route 40101), and to my surprise when I reached the depot, one of my employes stated to me that the grand jury had been adjourned. It was that fact that compelled us to resort to an information.

Q. Who had that grand jury adjourned?—A. Colonel Corkhill, the district attorney.

Q. Was there any business before the grand jury which it could have transacted?—A. I do not know certainly, but it is to be presumed that there was. Its adjournment so immediately after the organization, and so suddenly, and for so great a length of time, was unusual, especially in that season of the year.

Q. Explain what you found to be the cause for that sudden adjournment of the grand jury.—A. I have never been able to ascertain any reason for the adjournment, unless it lay in the fact that by that adjournment it was supposed that the statute of limitations would operate against a number of the cases that had been made up against star-route contractors.

Q. Before another grand jury would assemble in court?—A. Yes, sir.

Q. Did Colonel Corkhill consult you with regard to the business that you might desire to bring before the grand jury?—A. No, sir. The adjournment took place while I was on my way from Elberon, having been specially called there by the Attorney-General.

Q. Had you any information previous to that of its proposed adjournment?—A. None; direct or indirect.

Q. Do you know whether Colonel Bliss or any of the other attorneys had?—A. Colonel Bliss had not, because he was at Elberon with me. Mr Gibson was also there with me. Mr. Bliss had just come into the cases.

Q. Then, so far as you know, Colonel Corkhill did not consult with any of the attorneys for the Government engaged in the star-route cases?—A. No, sir. He claims, I believe, that he had spoken to the Attorney-General (Mr. MacVeagh) on the subject; but in relation to that there seems to be some difference of recollection between the Attorney-General and Mr. Corkhill.

Q. State what you intended to do, so far as the grand jury was concerned, on your return from Elberon, and which you were prevented from doing by the adjournment of the grand jury.—A. To go immediately before the grand jury and lay before them the facts in case 40101 for the purpose of procuring an indictment, or to get the facts somehow before the jury.

Q. Did you ask Colonel Corkhill why he had adjourned the grand jury?—A. I did on one occasion; and he stated that he had nothing special to lay before it, and he did not know that I would have.

Q. He had not taken the pains to inquire?—A. No, sir; he had not inquired.

Q. When was it that the next session of the grand jury would convene in regular course?—A. Not until October.

Q. What time in October?—A. The adjournment was on the 15th of September. I have here a paper that I presented in court which sets forth all those facts.

Q. Well, state the substance of that paper?—A. Yes, sir [referring to the paper]. I state first that it is due to the public, to me as special attorney of the United States, to my colleagues and associates, and to superior officers of the Government to state more fully than has been done why the more common course was not pursued, and why the information was filed.

The assassination of the President occurred on the morning of the 2d of July. On Wednesday night previous, at his request, I had a consultation at the White House, in part in hearing of others, in reference to the star-route cases. After a full explanation of this case he expressed himself as fully satisfied with what had been done, but urged me to proceed as rapidly as possible with the cases. It was the intention to complete the necessary preparations or present them to the grand jury at its meeting in September. On the Saturday following, the nation and the

civilized world were shocked by the announcement that James A. Garfield had been assassinated. That suspended all labor for a while. The delay, therefore, which occurred in the preparation of the case after the first adjournment of the grand jury was primarily and chiefly caused by the assassination of the President.

Resuming active investigations in connection with Mr. Brewster and Mr. Bliss, I was called to Elberon. After visiting Elberon several times, I at length returned from a special consultation on the 11th of September so as to be here on the reassembling of the grand jury. I was immediately recalled to Elberon with the least possible delay. On the 15th of September I hastened back to Washington to proceed with the cases. Witnesses had been previously notified at different localities. One had arrived and others were prepared to come. On stepping from the cars I was surprised by the statement that the grand jury had adjourned. The Attorney-General was at Elberon; he could not have known its purpose and did not. It was without his concurrence or desire. It was, too, without mine. The fact that I was specially commissioned to take charge of the star-route cases was notorious. The commission was openly placed upon the records of the court. Neither from the district attorney nor from the grand jury or any member of it, or any one else, had I any notice or information, direct or indirect, of the proposed recess, nor could I have anticipated it. It was unusual and extraordinary. The recess was for a sufficient length of time to prevent an indictment being found in the case, as was at that time supposed, within three years from the inception of the alleged conspiracy. It thus placed the plea of the statute of limitations in the hands of the accused. Then the question at once arose, shall this case be lost or be left in a position where it may be by lapse of time. To prevent possible failure by time running against the case it was determined to file an information. That information was prepared with the least possible delay by laboring both night and day. It was then argued and it was decided that in this District an information would not lie for a misdemeanor; the decision being contrary to the prevalent decisions in all other localities with regard to misdemeanors in the United States courts.

That in brief is an account of the delay in connection with that prosecution and this paper I read in open court.

Q. Do you say you prepared a brief or papers in reference to an indictment in that case?—A. I did.

Q. What became of those papers?—A. I have them in my possession now at my office.

Q. You did not file them, then, with the Government?—A. They were never completed. The assassination of the President prevented their completion.

Q. Why did you not present those papers, or that evidence, at the next term of the grand jury?—A. We had not all the facts or witnesses as we supposed necessary to do it. Some of our employés were out engaged in obtaining the information, and then Mr. Bliss objected to my going before the grand jury, and complications arose.

By Mr. MILLIKEN:

Q. Was there any blame to be attached to any one for the adjournment of that grand jury at the time it was adjourned?—A. Perhaps—desiring to be as charitable as I can——

Q. (Interposing.) We want the truth, not your charity.—A. Let me give you a combination of the two. It seems to me that the facts as I have stated them would attach blame——

Q. To whom?—A. To the district attorney.

Q. Mr. Corkhill?—A. Yes, sir.

Q. Any one else?—A. No one else, so far as I know.

Q. What do you think his purpose was in having the grand jury discharged?—A. I cannot tell his purpose. I can tell you what was the impression upon my mind at the time from the facts. It was that the grand jury was adjourned so as to prevent indictments being filed in the star route cases. And yet that may have been an incorrect and unkind inference. I am only presenting the facts. Your own intelligence can perhaps draw the proper inference more safely and impartially than I.

By the CHAIRMAN:

Q. How long after that was it that your connection with the cases ceased?—A. My connection ceased in March, 1883.

Q. State what efforts you made in any of the cases to procure indictments between the time to which you have referred and the time when your services were dispensed with.—A. Mr. Bliss and Mr. Brewster came into the cases in September. When President Garfield passed away Mr. Bliss, in a comparatively short time, assumed the leadership in the cases and they were conducted chiefly by him. What I did in the mean time was to procure indictments against Mr. Lilley and Brott. I procured two indictments against Brott, if I remember correctly, and several against Lilley.

Q. At what term of the court?—A. On December 3, 1881. Mr. Lilley had been an Assistant Sixth Auditor of the Treasury in connection with Mr. McGrew. Mr. Brott was a contractor. Those indictments were for procuring by Brott approval of accounts by Lilley.

Q. What kind of claims?—A. Post-Office claims. Mr. Brott was a mail contractor.

Q. What was the charge against Mr. Lilley?—A. Mr. Lilley was the Auditor who passed through improperly, it was alleged in the indictments, for a pecuniary consideration, claims presented by Mr. Brott.

Q. What routes did they involve?—A. I do not remember the routes.

Q. What was done with those indictments?—A. They have been allowed to slumber untouched ever since.

Q. Are they still pending in court?—A. They are pending. They were antagonized to some extent by Mr. Woodward, and have received no attention since they were filed.

Q. Did you present the facts upon which these cases were found to Mr. Bliss?—A. The facts were presented to him at the Arlington Hotel in the presence of Mr. Gibson, and in my office, and he spent some time in examining the papers, and some time in looking over the form of indictments which had been prepared, and which were afterwards completed by Mr. Gibson and myself. It became necessary for me then to procure those indictments by indirection. I was not permitted to go before the grand jury, and I transmitted the papers to the foreman, Mr. Wilson (or whoever was the foreman at the time), and in that mode secured an indictment.

Q. Did you go before the grand jury yourself at all?—A. It was a somewhat significant fact perhaps, that I was never allowed to go before the grand jury.

Q. What reason was given to you for that?—A. In the first place, Mr. Corkhill claimed that he alone as district attorney was entitled to go before the grand jury. In that claim he was supported by Mr. Bliss, who said that he doubted very much whether an assistant attorney, either a special assistant to the Attorney-General or an assistant district attorney could go before the grand jury legally, and that if when indict-

ments were found when he went before the grand jury it might justify a motion to quash. Over against that stands the significant fact that when Mr. Bliss passed actively into the control of the cases he unhesitatingly went before the grand jury, as well as Mr. Ker, by some arrangement.

Q. Do you know whether Mr. Riddle ever went before the grand jury except as a special attorney?—A. Mr. Riddle went before the grand jury in what were called the safe-burglary cases.

Q. Was Colonel Corkhill then district attorney?—A. I think Judge Fisher was then the district attorney. But the precedent had been established here in that case, which was one of almost national character. Mr. Riddle went before the grand jury and examined the witnesses, and that there was no legal obstacle in the way of my going has been demonstrated since by the conduct of both Mr. Ker and Mr. Bliss.

Q. Upon what information did the grand jury find indictments in the Brott and Lilley case?—A. I prepared a series of questions in writing and transmitted them to the foreman of the grand jury. These questions brought out the necessary information upon which to base the indictments.

Q. Who prepared the indictments in those cases?—A. I did, with the aid of Mr. Gibson, and we called in Mr. Taggart, of the district attorney's office, to aid in the revision of them.

Q. Was the motion made to quash?—A. It never was; perhaps I ought to say that the evidence in those cases was so simple, so clear, and so conclusive that there could have been no doubt of conviction. It consisted of acknowledgments or statements in writing, chiefly of Brott. What became of these statements, I do not know. Mr. Gibson saw them. I have seen them. And the cases could not have occupied more than a day or two in trial.

By Mr. MILLIKEN:

Q. Do you feel certain that you could get a conviction before a Washington jury with all that clear evidence?—A. My strongest belief is that I could have secured several convictions. Perhaps it is not improper for me to say that I am accustomed generally to succeed in both civil and criminal cases.

Q. A great many people believe that with a fair jury there would have been a conviction in the case that was tried. What is your notion about that?—A. My opinion is that the difficulty was not in the character of the jury, but in the mode in which the cases were prepared for trial and tried. There were as honorable men upon those two juries as the District or the nation can afford.

Q. Yes, but it takes twelve honorable men to render a verdict.—A. I have had large experience with the jurors of this District, and I think they would compare favorably with the jurors in any other locality. They are not ordinarily bad men. Indeed, when that question was recently presented in the proceedings against Ex-Senator Spencer, Judge Wylie took occasion to say that in a large experience with the jurors he never had seen, take them in the aggregate, a better class of men, and that it was a base slander on them to say that they were made up of bad or improper men.

Q. Did he refer to all the men on the jury?—A. He referred to the jurors generally. Now, if you will allow me to become more particular——

Q. Allow me to ask you another question. Will you name the honorable men who were on that jury—as honorable as are in this country?—A. There sits one of them, who was the foreman of the first jury—Mr.

William Dickson. I have been acquainted with him for a long time. We have been in almost bitter antagonism in politics. He is a Democrat; I am a Republican; but a more honorable, purer-minded, and upright gentleman I have never met.

Q. I have not disputed that; I simply ask for names.—A. William Dickson is one. The foreman of the other jury was Mr. Crane. He was a representative Republican.

Q. Who are the others?—A. I cannot now give you the names of all the others. I can get you a list of them, and by refreshing my recollection by that list I can tell you the character of every man on it.

Q. I have not sought in any way by any question to impugn the jury or anybody on it. I simply stated what was the impression of a great many people, and that, of course, I got from the newspapers as other people do.—A. Yes, sir; but I think it is an incorrect opinion.

Q. Let me ask you another question: What were the wrong methods of proceeding in the trials of the cases by which you think that verdict was lost?—A. The first answer would be this: In rendering the case that was presented too complicated. It embraced too many parties. It embraced Mr. Brady and Dorsey, and Mr. Dorsey's brother, and Rerdell and Miner, and several others, and embraced several different routes, so that it was impossible to present one clear distinctive case or view to the jury. The length of time that was occupied in the trial of the case would perhaps convey to your minds a development of that idea. In the next place the case that was selected in itself was not a strong case. Mr. Gibson, in connection with myself, to some extent, had prepared a careful and thorough analysis of the case, which, at my request, if I remember correctly, he took with him to Elberon. It was carefully read in the presence of Attorney-General MacVeagh and Mr. Bliss and Mr. Gibson and myself. At the close of the reading of that statement of the cases which contained all the essential facts connected with it, and to which few, if any, of importance were added on the trial, Mr. Bliss, turning to me, said, in a low tone, "Why, that case is weaker than I supposed it would be. It is not a case of any strength. I do not think there could be a conviction upon it." And subsequently he made the same remark to both Mr. Gibson and myself. It was that case so prepared, and so at that time pronounced a weak case, which was pressed forward as the first or test case in the prosecution. I endeavored to have other cases selected in which, after full examination, I felt or believed that there could be a conviction, at least cases which could be presented and tried within two or three weeks at the utmost. Mr. Gibson concurred with me and after consultation he addressed a letter to the Attorney-General urging that one of those cases, 40101, should be presented, but no attention was given to the request.

By Mr. MILLIKEN:

Q. Do you think it was the intrinsic weakness of the case or the method of its trial which resulted in an acquittal?—A. To some extent both.

Q. How do you account for that weak case being taken instead of the "strong case," as you call it, which you have named?—A. I was about to give the only explanation that I could.

Q. Please be as brief as you can.—A. I will, and yet at the same time I want to give you all the facts that I should. In my office, in speaking of that case, when I endeavored to direct Mr. Bliss's attention to others, he said that he intended to try the Dorsey case. Referring to another case in which one Boone was involved, he said that he intended to try that; that Dorsey and Boone were the "head devils," and he

intended to pursue them first. There was unquestionably manifest personal feeling on the part of Mr. Bliss toward Mr. Dorsey and toward Boone.

Q. Do you think that Mr. Bliss decided to try that case on account of his personal enmity to Mr. Dorsey?—A. To a considerable extent, if his conversation with me developed the feelings of his heart. Now, the case was not intrinsically strong as presented, because it was too complicated. No twelve men could retain the essential facts. Instead of having a few leading facts, strong and vigorous in themselves, to present to the jury, whatever of such facts there may have been, were overlaid by a complication of incidents.

Q. Mr. Cook, what would have been your verdict if you had been those twelve men?—A. As the case was presented, my verdict would have been that the men were not proven guilty.

By Mr. VAN ALSTYNE :

Q. The Scotch verdict "not proven"?—A. Yes, sir; in other words, under our law, I would be compelled to have brought in a verdict of not guilty.

By Mr. MILLIKEN :

Q. When you retired from those cases did you turn over to the Attorney-General the evidence you had collected and the brief you had made, with the recommendations as to who should be indicted?—A. I never had the evidence in my personal possession. I refused to take out original papers from the Post-Office Department. When I needed them I invariably had them brought to my office by a messenger and they were returned again. I never allowed an original paper to remain in my office overnight. I made no recommendation to the Attorney-General because I was satisfied that any recommendation from me, after he became Attorney-General, would be useless.

Q. You then hadn't the confidence of the Attorney-General?—A. Originally I had his confidence and his eulogy. I had his confidence when I retired, and perhaps my best way to answer that question is to refer——

Q. (Interposing.) Let me ask another question. I am satisfied with that answer as far as it goes. If you had the confidence and the eulogy of the Attorney-General, why do you say a recommendation of yours would not have any weight?—A. Because the Attorney-General had informed me distinctly on two or three occasions when I approached him with regard to some of the spasmodic actions of Mr. Bliss, that I must consider that he was indebted largely to Mr. Bliss for his position; that Mr. Bliss was an intimate friend of President Arthur's, and that as a consequence he would be compelled to place Mr. Bliss in control of the cases and allow him to conduct them in the mode which he deemed best.

Q. What significance did the fact that Mr. Bliss was a friend of President Arthur have in that connection?—A. The significance was this: that because he was a friend of President Arthur's the suggestions and views of Mr. Bliss in the conduct of the cases must be carried out, and that suggestions that might come from me would, of course, be of little or no importance if they antagonized those of Mr. Bliss. Then Mr. Bliss had assumed to act wholly independently of me and ceased to hold any consultation with me.

Q. Am I to understand from your statement that President Arthur put Mr. Bliss in command over the Attorney-General?—A. That is unquestionably what the understanding would fairly be. And associated

with it is an additional fact. President Arthur, in his message, said that he had instructed the distinguished attorneys in charge of the star-route cases to press them with all possible vigor. President Arthur never spoke to me in relation to the star-route cases, never saw me in relation to the star-route cases; I was never able to obtain an interview with him in relation to the star-route cases. And I therefore concluded, regarding him as a truthful President, that when he referred to having consultations with the "distinguished attorneys" connected with the star-route cases he did not include me.

Q. Did you ever have any talk with President Garfield, while he was President, upon the star route cases?—A. Yes, sir; I had on several different occasions, and received special instructions from him as to how I should proceed, what I should do, and what reports I should make from time to time to him.

Q. Did President Garfield evince earnest desire for the thorough prosecution of the "star-routers"?—A. He evinced an earnestness to pursue any one and every one who might be improperly involved in the star-route cases, irrespective of persons.

By the CHAIRMAN :

Q. You have spoken of these interviews in the first part of your examination?—A. Yes, sir.

Q. There were four of them?—A. Yes, sir.

Q. At the last one Mr. James, the Postmaster-General, was present?—A. Yes, sir.

Q. Was he present at any of the others?—A. No, sir; they were private personal interviews.

Q. Mr. James, I think, left the impression with us that he introduced you to President Garfield.—A. I observed that, but it was a mistake.

Q. You did not require any introduction?—A. I did not; I ought not. I was chairman of the Republican committee here for many years, and was personally acquainted with Mr. Garfield, but on that occasion I stepped back as a matter of etiquette to let Mr. James speak to the President first, and he probably inferred from that act of etiquette on my part that I was awaiting an introduction, and probably did say to the President, "Mr. Cook."

Q. An occurrence which frequently happens, I suppose, when people are introduced?—A. Well, ordinarily I am a modest and retiring—

Q. Was there any other person present at the other interviews with the President?—A. No, sir. The other interviews were distinctly personal, and from the stand-point that I have mentioned that the President might receive direct from me communications about these cases.

Q. I understand you to say that you prepared the complaints in the cases of Brott and Lilley?—A. Yes, sir; in connection with Mr. Gibson.

Q. Did Mr. Bliss have anything to do with them?—A. He looked over them to some extent—revised the first drafts to some extent.

Q. Did he draw them?—A. Oh, no. Those complaints were drawn in my office, chiefly by Mr. Gibson and myself, and were looked over by Mr. Taggart, of the district attorney's office.

By Mr. VAN ALSTYNE :

Q. Up to the death of President Garfield you thought it was the purpose of the administration and the persons in authority to prosecute with vigor all the parties concerned?—A. I had no doubt of it whatever.

Q. Are you still of that opinion touching those in authority since the

death of President Garfield? And, if not, is your present opinion based upon facts?—A. I stated, shortly after my retirement, openly in the press, that I doubted very much whether the cases would be prosecuted to a successful termination; that I doubted whether that was the purpose of Mr. Bliss. I have never changed my views upon that subject, whether they are correct or incorrect.

Q. Did you believe at that time that you were in possession of facts which amounted to real knowledge, and which justified your conclusion?—A. I did; and I can furnish some of those facts.

By the CHAIRMAN:

Q. State them.—A. If you will allow me a little kind indulgence, I would like to put in at this point my letter of resignation, addressed to the Attorney-General, and dated March 14, 1882. It is as follows:

[William A. Cook, attorney-at-law.—Lock-box 71.]

WASHINGTON, D. C., *March 14, 1882.*

SIR: Allow me to call your attention to the fact that for some time past I have had under consideration the question of my continuance as a special assistant attorney of the United States in the prosecution of the star-route cases; and I have finally concluded to tender my resignation of the appointment conferred upon me by commission dated June 1, 1881.

Respect for you and justice to myself require that I should at least refer to some of the reasons which have influenced me in this determination. Without any solicitation on my part, I was selected by the late Attorney-General, with the concurrence of the late President, to assist in the prosecution of the star-route cases and to take immediate charge of them.

After considerable reflection, candor of statements, and mutual understandings, I consented to accept the position kindly tendered me, and, shortly after the date of my appointment, entered upon the discharge of the duties connected with it. For successive months I devoted most of my time to the investigation of various cases and the preparation necessary for their early prosecution by the ordinary mode of indictments. At the request of President Garfield, and until the period of his assassination, I had frequent interviews with him, as well as almost daily consultations with your immediate predecessor, and was careful to take no step which had not their direct or implied sanction.

Shortly before you and Mr. Bliss, in September last, were retained, the preparations which had been in progress were so far completed that some of the cases were in a condition to be submitted to the grand jury, but unexpected circumstances and contingencies prevented this being done as promptly as was desired. The result was that a criminal information against Thomas J. Brady and others was filed in connection with mail route No. 40101, from Prescott, Ariz., to Santa Fé, N. Mex.

I cordially united with you and Mr. Bliss in the argument on a motion which was made to quash the information, and endeavored, as far as time and opportunity allowed, to acquaint you both with the facts of this and associated cases, and, while holding myself ready to perform any required work, I have not voluntarily evaded any responsibilities.

It is manifest, however, that my relation to the cases has become essentially changed. Having been selected by the late administration, this was to have been expected. Within the terms and intention of my appointment, I temporarily represented it, acted in accordance with its wishes, and was responsible primarily to it. These considerations strongly inclined me to retire from the cases immediately after the death of President Garfield and the practical withdrawal shortly thereafter of Mr. MacVeagh from his office. But I was induced to remain from different considerations, and among them, because I had good reason to believe that you desired me to do so, and because it was supposed my retirement might interfere with the finding of indictments in cases which seemed to me to demand judicial inquiry and determination.

A number of indictments have, however, been found, chiefly in cases selected by Mr. Bliss, and it is to be presumed that he has become familiar with these (as well as others) by an investigation of facts and papers mostly procured, classified, and prepared prior to September last, and perhaps otherwise. Whether the strongest and most important cases have been included in the indictments, it is not for me to now determine. But without referring to other facts and reasons the present seems to be the most appropriate time for my retirement, and I respectfully submit the matters for

your consideration and action. I need scarcely assure you that I expect to always entertain the highest regard for you, both personally and professionally. I will be pleased to hear from you at your earliest convenience. Wishing you every possible good,

I am, very respectfully, your obedient servant,

WM. A. COOK,
Special Assistant Attorney, United States.

HON. BENJAMIN HARRIS BREWSTER,
Attorney-General, United States.

I received an answer from the Attorney-General in the following terms:

DEPARTMENT OF JUSTICE,
Washington, D. C., March 17, 1882.

SIR: I have received your letter dated the 15th of March, 1882. It was a surprise to me, and I could not see the *necessity* for it. I have considered your proposed withdrawal from the star-route cases, as submitted to me in that letter. I have read with care the reasons which you say rule you. As they are the conclusions of your own judgment and relate *exclusively to yourself*, I will not do more than accept them as they are presented. With me they must be final. It is true, as you have stated, that you were selected by my predecessor, as Mr. Bliss and myself were.

Had I not been advanced to the position I now hold I would have continued to act for the Government, as I had believed you would and as Mr. Bliss has acted—not complicating my relation as counsel with the *supposed* policy of any administration. I did not think, and I do not now believe, that the position of counsel in those cases has the remotest connection with any question of *political* administration. They are public cases, not political cases; they are *pro bono publico*; they were confided to all of us as lawyers, and not as politicians. Since I have had the control of them as the Attorney-General, I have treated them as public cases; and I have been instructed by the President to give them *my* vigilant attention, and to see that they were prosecuted with diligence and with earnestness to a practical result; and those instructions I have, before this, as an act of public duty and as an act of personal duty to him, made known and had announced.

I cannot permit the implication you appear to raise by your reference to your having been retained by the late Administration, to pass without objection. You were not responsible to any particular Administration, as a political responsibility. Nor were these cases, or are they, to be confounded or associated with any idea of policy supposed to be connected with any Administration. They are instituted for the purposes of justice, and justice only. They will be conducted by counsel upon principles that regulate the orderly administration of justice, and not with reference to the wishes or policies of any President, no matter what his name may be.

Had you continued in the cases and *labored* in them, your usefulness would have been appreciated. Mr. Bliss, to whom the matter was committed at the instance of the Post-Office Department, and by whom he was especially invited, has exercised his peculiar skill in methodizing and organizing and executing all that was necessary to prepare the way for securing the binding over and indictment of the accused, and he did secure those results.

The indictments, because of their fundamental importance, I myself caused to be prepared by Mr. Ker, of Philadelphia, a gentleman conspicuously experienced as a draftsman of criminal pleadings; he is an acknowledged eminent expert in that branch of the law. Those indictments have been found, and they are now soon to be tried before a traverse jury. At this juncture, on the eve of their trial, you announce to me that you propose to withdraw from these cases. You say that this is the most appropriate time, and “submit the matter to me for my consideration and action.” Of that you must judge, both as to the *necessity* for the withdrawal and the fitness of the time. All that I can say is to acknowledge your request and accept it, and to return my thanks for your civil expressions of personal and professional respect for me.

I am, sir, truly, &c.,

BENJAMIN HARRIS BREWSTER.

Col. WILLIAM A. COOK,
Washington, D. C.

By Mr. MILLIKEN:

Q. That is the letter of the Attorney-General?—A. Yes, sir.

Q. Who was the Attorney-General at the time?—A. Mr. Brewster; and in that letter he states distinctly that the matter had been committed to Mr. Bliss by the Post-Office Department. Now, I said I would

go a step or two further. In an interview with Mr. Bliss in this city, March 18, 1882, which was published in the Post, I find this. The reporter asks him:

Did you anticipate Colonel Cook's withdrawal?

No; it was an entire surprise to me.

Had there been any trouble between him and yourself?

Nothing of the kind. No unkind word or word of difference has ever passed between us. I might perhaps fairly stop here (continued Colonel Bliss), were it not that Colonel Cook has allowed to go to the public an assertion which I think correctly states what he said and which involves a personal attack upon me.

That was simply in relation to his purchase of the Republican.

Have you recently advised with Colonel Cook in regard to the cases?

He had just said that there was no trouble between us.

No; I have not advised with him in regard to my intended action in every case. Circumstances arose which led me to think it was better to procure the arrest of certain persons before Colonel Cook had any knowledge of the proceedings. I laid the facts before Mr. Brewster, and was directed by him to take that course. The parties were arrested and have since been indicted. I have not sought to "freeze" Colonel Cook out of the cases, or Mr. Gibson. The fact is that Gibson voluntarily retired after his work had been finished. His work was a work of investigation; when that was completed the cases passed into the sphere of prosecution. Mr. Gibson obviously had no further scope for his abilities. As to Mr. Cook, without enlarging, the fact is that I have for some weeks stood in the way of his dismissal. It is true that I procured the discharge of the detectives.

Those were detectives that I had employed, and they were discharged without my knowledge and others substituted. They were valuable men.

I did not know that they were employed in the cases until after I had been concerned in them many months. I never knew what they did, or that they did anything, and it was only when bills for their services accidentally came to my notice that I first knew of their employment. I could see no use for detectives in the cases at all, and certainly not for the men whom he employed—men whose names even he did not venture to give upon the vouchers which he presented for their payment. There is somewhere an intimation, alleged to proceed from Colonel Cook, that he remained in the cases because he considered it important to do so for the purpose of affecting the action of the grand jury.

By Mr. MILLIKEN:

Q. What were the circumstances which led Mr. Bliss to have certain arrests made before he let you know about the evidence?—A. Will you allow me to present one more statement of Mr. Bliss's in another paper? It comes in here appropriately, and then I will come to that question. At the same time or shortly afterwards, in the New York Commercial Advertiser, there was an interview with Mr. Bliss, from which I will read:

Col. George Bliss was seen at his office to-day, and in reply to inquiries said, "About a month ago I became dissatisfied with the manner in which Colonel Cook was proceeding with the star-route cases, and I did not like his associations by any means. I told Attorney-General Brewster so, and he wanted to relieve him at once, but I said no. He still insisted, after being spoken to by the Attorney-General, in wanting to push certain of the cases for trial where the evidence was not strong enough—of course for effect, in my judgment—and finding that the Attorney-General supported me I supposed he became more jealous of me. Hence his resignation."

In regard to Cook's intimation that the cases would not be prosecuted Colonel Bliss said:

"The cases will be pushed forward for trial as rapidly as possible, Dorsey, Brady, or any one else not being considered. Politics will not enter the case, and simply justice will be called for."

He said associate counsel in Cook's place would soon be engaged. He was not dis-

posed to say who it would be until the gentleman's name was made public. Colonel Bliss expects the trials will come off in the May term, and he wants to get them off his hands as soon as possible. In conclusion Colonel Bliss said, "You may say I advised the Attorney-General to get rid of Colonel Cook."

There are the two papers, the one directly contradicting the statement of the other. And now your question if you please.

By Mr. MILLIKEN:

Q. What were the circumstances which led Mr. Bliss to have certain arrests made before he let you know about the evidence?—A. He can speak for himself. This is a letter from Mr. Bliss to me dated—

POST-OFFICE DEPARTMENT,
Washington, D. C.

MY DEAR COLONEL: By direction of the Attorney-General I have prepared informations in the police court against Boone and a half dozen of his bogus bidders, and shall in the morning apply for warrants for them.

I designedly did not notify you of this proceeding, because I thought from your past relations to Boone it might embarrass you. *With this knowledge now given you are at liberty to assume either position that you choose, that is, that you know nothing about it, or that you know all about it. Do whichever commends itself to you.*

Yours, truly,

GEORGE BLISS.

That was simply, in one part, a commission issued to me by Mr. Bliss, to lie in connection with the cases and say that I knew all about it, or that I knew nothing about it. I went immediately to the Attorney-General and showed him this letter and asked him whether he had directed Mr. Bliss to proceed without any consultation with me or any of the other attorneys. He said he had not, but that Mr. Bliss had had some consultation with him, and probably inferred that he had given such authority. I said to the Attorney-General that the time had come when it was important for me to understand my relation to the cases; that it was useless for me to remain in them if I was not to be consulted, and I could assume no responsibility for the failure of any of the cases unless I was. He said to me, "Now, old fellow, don't get in a bad humor;" and related to me a Grecian fable——

Mr. MILLIKEN. Mr. Chairman, do we want all this?

The CHAIRMAN. This relates to the good faith of Mr. Bliss in his action in connection with these cases.

The WITNESS. (Continuing.) He said to me (he repeated it again), "You know I am largely indebted to Mr. Bliss for my appointment. He is a particular friend of President Arthur and I must do things accordingly, that I otherwise might not do." I said to him distinctly, "I wish the Attorney-General to understand that I have not sunk so low, or become so degraded, professionally or personally, as to accept a commission from Mr. Bliss, or any one else, to lie in the star-route cases," and I left him.

Q. What were the circumstances which led Mr. Bliss to have certain arrests made before he let you know about the evidence?—A. I supposed I was giving the circumstances, all of them. I addressed a letter to Mr. Bliss, stating that I had seen the Attorney-General, and that he did not concur with him; that he had directed him to proceed without consultation. I also stated to him that his reference to my relations with Mr. Boone was without foundation in fact; that I had no relations to Boone which would prevent me from prosecuting him or any one else, fully and unhesitatingly. Mr. Bliss then went to New York and sent me a

note, stating that he expected to take up these cases in a few days, and if I desired, he would be pleased to have me participate in them. I did so. They were delayed for months, and finally, when he was absent in New York, Mr. Gibson and I made a point or two that I was desirous of making while Mr. Bliss was away, and the cases were concluded in his absence, and the parties bound over to court.

Q. What parties were they?—A. Mr. Boone was the chief party. They were called the “bond” cases, the “straw bonds.”

Q. Have those parties been indicted?—A. Yes, sir. Prior to the pursuit of Mr. Boone in the police court, I had been, with the authority of Attorney-General MacVeagh, engaged in endeavoring to obtain information from Boone, and had procured considerable, as he was very well posted in regard to the cases. I put him in communication with Mr. Bliss, at the Arlington Hotel, with a hope that he would be able to conclude the arrangement which I had made to make him a witness. A difference arose between them, and Boone came away very greatly dissatisfied. He was then indicted, but when the Brady, Dorsey *et al.* case was finally tried, Mr. Boone was placed in the position, to some extent, I had at first attempted to have him in (though less favorably for the Government than he would have been otherwise), and was used as a witness, with the understanding that the cases against him should be *nolle prossed*, and when they were concluded that was done, and the cases against Boone were dismissed; so that all the proceedings in the police court became, as respects Boone, entirely nugatory.

By Mr. VAN ALSTYNE:

Q. Who conducted that final prosecution against Boone?—A. Mr. Bliss.

By Mr. MILLIKEN:

Q. What were the associations referred to in that letter of Mr. Bliss?—A. They could have been no other than those to which I have just referred. The letters will show.

Q. Association with whom?—A. With Mr. Boone in an attempt to obtain from him information which might be used in the prosecution of the star-route cases.

Q. That is all?—A. Yes, sir. There never was any peculiar relation existing between Mr. Boone and myself.

Q. Did you return to the Government officers the copies of papers sent to you?—A. I did; and I hold the receipt of the Attorney-General for them. I thought I had it here, but I do not see it among these papers. I will produce it later, though.

Q. Copies of all the papers sent to you?—A. Yes, sir; copies of all the papers. Here is the receipt. There was a demand made upon me by Mr. Bliss for papers, and I returned all the papers and all the fragments of papers that I had, not to him, but the Attorney-General. He stated afterwards in a communication, that the papers were of no consequence whatever and would be of no utility to any one. Nevertheless I returned them.

Q. Did you take copies of those papers before you returned them to the Government?—A. I did not. They were of no manner of use to me, and, as Mr. Harris stated, to any one else. The most of them were mere abstracts or notes in relation to routes. This is the receipt.

DEPARTMENT OF JUSTICE,
Washington, ———, 188—.

Received from William A. Cook, esq., a package which appears to contain the following-named papers, but which I must hereafter examine: Route 44154, part 2;

route 44154, part 1; route 38135, route 38140, route 34149, route 38113, route 44140, route 38134, part 1; route 38134, part 2; route 44155, part 1; route 44155, part 2; route 34124; route 38135, part 2; route 35051, route 33264, route 34124, route 35013, route 35015, route 34042, route 35043, route 33259, route 35042, route 35015, route 44160, route 44119, route 38152, route 44140, route 35051.

Copies of letters of George F. Brott and Fred. B. Lilley.

Copy of contract of John A. Walsh with the United States.

Copy of contract of George L. McDonough with the United States.

BENJAMIN HARRIS BREWSTER,
Attorney-General.

Q. Did you have copies of those papers made before they were returned?—A. I had not copies made of any papers.

Q. Were any copies made by anybody before they were returned by you?—A. Not with my knowledge.

Q. Did they go out of your hands so that any one might have made copies without your knowledge?—A. They were never out of my hands so that copies could have been made, so far as I know.

By Mr. VAN ALSTYNE:

Q. While they were in your possession were they kept in your office?—A. They were kept in my office.

Q. For what length of time?—A. The copies were kept there probably, some of them, for several months.

Q. In what manner kept?—A. They were kept, a part of them, in a safe and a part of them in a drawer locked up in my office.

Q. Did any other person than yourself have access to the safe?—A. No, sir.

Q. Or to the drawer?—A. No, sir.

Q. Then while they were contained in either of those places no person could have copied them without your knowledge?—A. Unless they were taken away clandestinely.

Q. Could that have been effected without your knowing it?—A. It might have been effected without my knowing it, for I have been informed credibly that a proposition was made on behalf of the Government to go into my office and gather up all papers that might be supposed to be connected with the star-route cases.

Q. Did you ever leave any of them exposed in your office while you were absent from it?—A. I do not think I ever did. One answer I should correct. As to the safe, my partner at times had access to the safe.

Q. Who was C. C. Cole?—A. He was my partner.

Q. Did any of the papers, or copies of papers, which you had received from the Department of Justice, so far as you know, reach the hands of either of the defendants in the star-route cases?—A. They did not.

By Mr. MILLIKEN:

Q. Did any one else except yourself have the copies?—A. No, sir; the copies were made for my individual use.

Q. How could they reach the defendants without your knowledge?—A. They might. Sometimes days or weeks would elapse and I would not look at papers in my office.

By Mr. VAN ALSTYNE:

Q. But you have no knowledge that they were ever possessed of any of those papers?—A. I have not. It is a suggestion that has been made on various occasions by interested parties. I mean parties interested on behalf of the Government, and apparently anxious to account for its

failure. All statements or insinuations that I retained papers or had copies made, or furnished any to the defendants or any other persons, are utterly false.

By the CHAIRMAN:

Q. Did you see some articles that were recently published in the New York Sun?—A. I did.

Q. Were the papers from which those articles were taken ever in your possession?—A. Never.

Q. Did you ever see those articles before in manuscript, or in any other form?—A. No, sir.

Q. Is that the first knowledge you had of the existence of such papers?—A. No, sir; because part of those papers related to the Brott case, if I remember correctly.

Q. You had a part of those papers then, so far as they related to the Brott case?—A. Yes, sir; but so far as Mr. Ellis is concerned, I never saw any statement made by Brott involving Mr. Ellis. If such papers existed, they were never shown to me.

Q. But you did have certain papers involving Brott?—Yes, sir; on which I had the indictments found, and of which I had copies made.

Q. But in the papers which you had, or which you saw, you say there was no mention of the facts which appeared in the Sun, so far as Mr. Ellis is concerned?—A. No, sir; and I am quite sure that quite a number of the pretended facts in the article in the Sun were incorrect.

Q. Do you know how the matters that were published in the Sun became public?—A. I do not.

By Mr. MILLIKEN:

Q. Did you ever turn over to the Government the result of the work of your detectives?—A. Invariably. I used that information.

Q. Did you turn it over to the Government so that they had it in their possession after you became disconnected with those cases?—A. I had no such information.

Q. You have testified that you employed certain detectives, and that those detectives were discharged.—A. Yes, sir.

Q. Did those detectives bring to you information in regard to those cases?—A. While I was actively connected with them they did.

Q. Did you turn that information over to the Government?—A. That information I used as far as I could; utilized it in the progress of the cases. There was nothing to turn over.

Q. Was not that information in writing?—A. No, sir; it was not in writing.

Q. Was it not put into some shape for you?—A. No, sir; it was not put in any shape in writing.

Q. What became of those detectives who were discharged?—A. Most of them remained about the city of Washington, and were made objects of investigation, according to bills put in and certified by the Secretary of the Treasury by Mr. Bliss and his associates.

Q. Were any of them ever employed afterwards by the defense?—A. I am not aware that any of them were.

Q. Was John Sargent so employed?—A. I have no knowledge of his being so employed.

By the CHAIRMAN:

Q. Please name the detectives you employed.—A. I had Mr. Sargent; I had to some extent Mr. James Croggin; I availed myself largely of the services of Mr. Newcombe, who was generally employed;

of Mr. Jerome J. Hinds, and Col. William B. Moore, and incidentally of some others.

Q. Were all those discharged?—A. They were discharged by Mr. Bliss, as he states in his interview, without any consultation whatever with me.

By Mr. MILLIKEN:

Q. You have read the interviews with Mr. Bliss, in one of which he approves of your action, while in the other he does not; which of those interviews occurred first?—A. The one in the Post, the one I first read. I read them chronologically.

Q. What was the date of it?—A. The 18th of March.

Q. What was the date of the later one?—A. That one is of the date of March 21.

Q. So that between the 18th and 21st of March Mr. Bliss seems to have changed his mind in regard to the value of your services?—A. Yes, sir; and with regard to the part that he took respecting my connection with the case; in the one interview stating that he had upheld me, prevented my removal; in the other that he had advised it; in the one that there had never been any difficulty between us; in the other that he was dissatisfied with my course. And there were other similar interviews which he gave out at that time.

By the CHAIRMAN:

Q. In reference to these detectives, can you state whether any of the reports of the investigations of the detectives whom you employed were written out and filed with the Department?—A. In the first place there was no money whatever to be used in relation to the star-route cases, and for some time, at the request of Attorney-General MacVeagh, I supplied the necessary money myself. Afterwards I made out some bills and took receipts from the several persons I had employed. Some I never took receipts from, but paid them out of my own funds.

Q. Have you there a memorandum of the amounts which you paid to the detectives?—A. No, sir.

By Mr. GIBSON:

Q. Did you not propose, after the information was quashed, to proceed before the police court?—A. Oh, yes. I proposed after consultation with Mr. Gibson, after the information was quashed by Judge Cox, to proceed at once and vigorously with all the cases before the police court, including the "straw-bond" cases. I submitted that proposition to Mr. Bliss, and he earnestly antagonized it. He regarded it as improper and useless. I was therefore surprised, of course, when I found that without consultation he had gone into the police court and instituted proceedings there which were carried on for a considerable time at heavy cost to the Government.

Q. You also stated that subsequently, in Mr. Bliss's absence, those cases were concluded.—A. Yes.

Q. Might they not have been concluded weeks previous upon the same points?—A. I think upon the points raised that they could have been concluded within a week after they were commenced.

Q. They ran on several weeks?—A. Yes, sir, several weeks; indefinitely almost.

Adjourned.

WEDNESDAY, *March 12, 1884.*

WILLIAM A. COOK recalled and further examined.

The WITNESS. I wish, with the permission of the committee, to make a slight correction. I stated yesterday, if I remember correctly, that I was offered, through Colonel Wood, \$25,000 as a retainer in behalf of the defendants in the star-route cases pending my acceptance of the offer of the United States through Mr. MacVeagh. The amount tendered was \$20,000, not \$25,000.

By Mr. VAN ALSTYNE (in the chair):

Question. Please begin at the point which you had reached yesterday in the history of this case, and proceed with it. I think you were speaking then of proceedings pending at the police court.—Answer. Yes, sir. I had stated that they were instituted without any consultation whatever with me. I had referred to the letter which I had received from Mr. Bliss of date of January 5, 1882. On the 6th of January I made a reply to him, in which I stated, among other things:

I have supposed that as assistant counsel of the United States it was our purpose to consult fully in relation to the star-route cases, to act in harmony, and after doing so, to submit the results of our labors to the deliberation of the Attorney-General. This I certainly have endeavored to do. It would indeed be a surprise to me if the Attorney-General had directed you to proceed with any of the cases, in the police court or elsewhere, without any consultation, suggestion, or information to me, or by concealing your plans and action from me in the progress of the star-route cases. Allow me to inquire if I am to understand that the Attorney-General so directed? I regret that these proceedings have been instituted in the police court without even notice to me of the intention to do so; nor am I aware of any relation between Mr. Boone and me, or any others who may be involved in the cases, to prevent the freest consultation with me, and the most active co-operation on my part.

Q. Did you give the names of the gentlemen who were arrested?—A. Part of them; there was Boone, Cabel, Herringer, Jackson, and a lady named Armstrong, who was an inmate of Mr. Boone's family.

Q. Do you remember the day that they were arraigned at the police court?—A. No, sir; not certainly; but my letter or reference to it will enable me to determine. It was on the 7th of January.

Q. And that examination, you say, was pending until it was finally terminated by action of yourself and Mr. Gibson's in the absence of Mr. Bliss?—A. Yes, sir.

Q. Now, Mr. Bliss answered that letter and stated that he would not say that the Attorney-General had absolutely directed what he had done, but that he understood it fully, and on the 11th of January I sent him another letter, in which I said, among other things, that—

I entered after mature consideration into the star-route cases on the part of the Government, rejecting a large and liberal offer of employment from some of the defendants. Until your employment, Mr. Brewster's, I acted largely alone in connection with the Attorney-General, and devoted time and attention to the cases to a greater extent than you suppose. My choice of employment was deliberate, and as far as possible I shall try to discharge my duties while I remain in the case. That I felt hurt, not irritated, when I learned what you had done and the reasons assigned for proceeding in the police court without any consultation with me, is true; and I think it was a mistake not to inform me, especially as immediately after the decision of Judge Cox I had suggested vigorous proceedings in that court, which you opposed. But all this becomes immaterial now. I will co-operate with you as far as I possibly can in the police court, but it will be just for you to remember that I have in vain endeavored to see the original of the Tidball report and other papers. Indeed, let me kindly and candidly suggest, not because "I am on my ear" [quoting an expression in one of his letters], but in the interest of the cases which have been committed to us, whether it would not be wiser and better if you would consult with me more fully and seek information from me rather than from others who may, after all understand less about the cases than I do. At all times you will find me ready and willing to do

so, and by so doing I think you will be saved considerable labor, and perhaps in the end be better satisfied with the results of the case.

After receiving my first letter Mr. Bliss sent me one from New York, saying that if I saw fit I could appear in the police court.

Q. Where is the letter that Mr. Bliss sent you?—A. It was in the following terms:

NEW YORK, *January 9, 1882.*

MY DEAR COLONEL: The examination of Boone in the police court is set for Wednesday at 12. I hope you will feel like taking part. I shall be in Washington Monday a. m.

Yours truly,

GEO. BLISS.

P. S.—If you decide to take part please notify Post-Office Inspector Tidball.

I at once proceeded to take an active part in the cases in the police court, and, as I have heretofore stated, after what I regarded as an unnecessary delay of the cases and a useless production of what was designated as evidence, in Mr. Bliss' absence they were disposed of by having the parties bound over to court. That, I believe, concluded the transaction.

Q. After the arraignment of the prisoners, until they were finally adjudged by the court as probably guilty, were they held to bail?—A. Yes, sir.

Q. And the recognizances were returnable to the grand jury?—A. Yes, sir; and indictments were found against several of them which have never been prosecuted, but the indictment found against Mr. Boone, who was the representative man of the number, was, immediately after the second trial of Mr. Brady, Dorsey, and company nolle prossed, as I stated yesterday.

Q. If they gave their bond on arraignment for their appearance before the grand jury, what was the occasion of the continuance of the examination at the police court?—A. There was none; but one reason that was incidentally assigned was that the time had arrived for entering into new contracts on the part of the Post-Office Department, and that it was important that those contracts should be entered into upon superior bonds. On the other hand, it was claimed by Mr. Boone and some of his associates that the proceeding was instituted against him and others to prevent them competing for the obtaining of contracts, and that it was in the interest of other contractors or other bidders.

Q. Were there any facts developed on the examination at the police court that were not within the full knowledge of the attorneys for the prosecution, and which might not have been communicated in an intelligible and reliable way to the Post-Office Department?—A. None whatever. All the facts lay in the papers of the Post-Office Department, and at that time, if I remember correctly, official reports had been made in relation to those cases. Those had been secretly made out upon evidence taken in the Post-Office Department, and was called the Tidball report.

Q. Then, if I understand you aright, you assert that the examination at the police court was neither in the interest of the prosecution of the criminal case itself, nor did it tend to aid the Post-Office Department in the more intelligent and safe execution of the duties that devolved upon it.—A. I think there was no actual necessity for the proceeding in the police court. The cases could have been taken at once to the grand jury.

Q. About how many days were devoted to that examination?—A. Well, if I remember correctly, well on to two months.

Q. And those two months entered into the per diem charge of Mr. Bliss as an attorney for the Government in the star-route cases?—A. Yes, sir; and perhaps in that connection I might as well state that while his bill for that period, if I remember correctly, extended to five or six thousand dollars, and was allowed by the Attorney-General, I prepared a bill from January to March, two and a half months, for \$2,500, and the Attorney-General cut it down to \$1,000; and in doing that, after some considerable delay and correspondence, he assigned as a reason, in a letter dated the 23d of November, 1882, that the bill I had presented for \$2,500 was excessive; that he could not allow it; that it was greater compensation than was allowed cabinet officers or members of the Supreme Court. To this I replied in a letter to the the Attorney-General dated, November 27, 1882, in which I said:

I have received your communication of the 23d instant in reference to my bill as special attorney for the United States in the star-route cases. The bill rendered included the months of January and February and seventeen days of March and was for \$2,500. The bill was for services actually rendered under official employment. It was duly sworn to. Of the amount claimed you allow \$1,000. In doing so you assign your reasons. It is, I think, due to myself that this should be briefly noticed. It is perhaps, too, due to you. I cannot deny that the compensation included in the bill exceeds the pay of a cabinet officer or a judge of the Supreme Court, but that the pay of a cabinet officer or a judge of the Supreme Court is a standard for the compensation of an attorney-at-law especially employed in important cases I cannot admit. It certainly was not the rule adopted in regard to your own compensation in the star-route cases nor in determining the compensation of Mr. Bliss, Mr. Merrick, and Mr. Ker.

I then go on to say that it will not be disputed that for the period covered by my bill Mr. Bliss has been allowed a very much greater compensation, and to express the hope that the Attorney-General may, on mature consideration, change his mind as to my account.

That bill which I rendered was for the same general class of work performed by Bliss; and, as you will observe, the Attorney-General himself set up the standard of compensation or pay which should be allowed in the star-route cases.

Q. Are you familiar with the portion of time of employment assigned to Mr. Bliss; for instance, from the last of December until the termination of the time at which you put in your claim?—A. His services were during that period also substantially the same in character as those rendered by me.

Q. Had you devoted your attention exclusively to the business of the Government?—A. Exclusively to the business of the Government, involving to some extent another case of *United States vs. Howgate*, which had been placed in my care, and in which I saved the Government probably about \$75,000.

Q. Do you know what the fact was in that respect as to other counsel?—A. I do not.

Q. Was Mr. Bliss present in Washington during that entire time?—A. No, sir; he was repeatedly absent. He would come and remain a few days, then go to New York, and come back again at his pleasure. During the period of his absence Mr. Gibson and I attended to the cases.

Q. Did you become possessed of any new facts touching any of the cases with which you had to do through the instrumentality of Mr. Bliss or Mr. Merrick?—A. No, sir.

Q. Did you watch the progress of the trials of the star-route cases after you had ceased to be connected with them?—A. I was almost necessarily in the court-house every few days, and observed them with some degree of interest.

Q. Did you read the published reports of the proceedings?—A. I sketched them; glanced at them.

Q. What do you say as to there being evidence in the trial of the discovery of new facts other than those which you possessed and communicated to counsel before leaving the cases?—A. There were no material new facts. I cannot recall any material fact important to the case that was developed in the evidence that had not been secured prior to the appointment of Mr. Bliss, and while Mr. Gibson was connected with the cases.

Q. When the examination of Boone and his companions was inaugurated before the police court, did you advise against it?—A. No, sir. I could not; the determination was formed independent of me to carry the case on in the police court.

Q. After it came to your knowledge, did you advise against it?—A. No, sir; I did not. I was placed in this delicate position——

Mr. STEWART. I do not think there is any necessity to make any explanation. This gentleman is a witness.

Q. Did you approve of it?—A. I would not have instituted it at the time that it was commenced; but it is proper, if you will permit me, to say that the proceeding having been instituted in the manner it was, and having been placed in the delicate position of refusing my co-operation, I felt that I could do nothing else with justice to the cases or honorably to myself but manifest my willingness to participate in the hearing of them before the police court.

Q. You remarked that there was a multiplicity of unimportant evidence introduced; to what did you refer in that remark?—A. There was one or two simple questions contained in the case, and that was whether there was a probable case arising from the defective bail. There were handcarts and loads of papers brought in, going into all matters connected with the cases, which, in a preliminary examination, I did not regard as at all important in the case. I supposed the inquiry before the police court lay in a few important and pertinent facts.

Q. Being possessed of the facts that told against the defendants, what do you say as to the length of time that would be required in a proper presentation of the case before that court?—A. In a condensed and incisive form the case ought to have been presented within two days, so far as the Government was concerned.

Q. But instead of that it was continued through two months or more?—A. About that time—through several weeks.

Q. What do you say in regard to the length of time that was occupied in the trial of those cases on the indictments in the higher court?—A. The trial of those cases corresponded in that respect with the examination in the police court.

Q. Was it unnecessarily protracted?—A. I think it was unnecessarily protracted. The indictment, a copy of which I hold in my hand, embraced a number of separate routes, and every minute particular of those routes was gone into. I do not know how far I may express an opinion—if I err the committee or some member will check me—but no criminal case of the magnitude that these were can ordinarily be successfully presented so as to secure a conviction without a grouping of a few concise and pregnant facts. The mere incidents are of no consequence excepting for the consumption of time. Now, while I have this indictment before me perhaps I might refer to it. It is the first indictment, filed March 4, 1882. It was drawn up, as has commonly been stated, by Mr. Ker, a supposed expert from Philadelphia. In that indictment two persons were presented by their mere initials, “M. C.

Rerdell" and "J. L. Sanderson." This point was raised that the indictment was bad because no person was definitely designated by the initials, and that therefore the indictment should be quashed. It was swept out of the way by the action of the court, and, as a consequence, a new indictment was found. That delayed the case probably over two months, during which time the expenses were accumulating. In the second indictment Mr. Sanderson was dropped out. In the mean time he had been in the city, but instead of being reindicted by his full name he was allowed to escape entirely.

Q. Was that count in the indictment for conspiracy?—A. Yes, sir.

Q. Was the form of that indictment discussed before it was presented to the grand jury for the signature of the foreman?—A. Never before me. The whole action in this case, as Mr. Bliss stated in one of his interviews, although I was familiar with all the facts and had been from the beginning, was carefully concealed from me.

Q. As an elementary principle, if the names of a coterie of conspirators are known, is it not absolutely necessary that they should be all set forth?—A. They should be.

Q. If they are not known as a matter of fact, can it be pleaded "with others unknown"?—A. It might be.

Q. How many special counsel were there at that time in the employ of the Government?—A. There was Mr. Bliss, Mr. Ker, and myself nominally, not fully. I was engaged in work to some extent at that time in examinations, but the distinctive action taken in this case was independent of me.

Q. Do you know directly or indirectly whether or not Mr. Bliss was consulted in regard to the indictment before its presentation?—A. I have understood that he was.

Mr. STEWART. The question is whether you *know* it. You are a lawyer.

By Mr. VAN ALSTYNE:

Q. From anything that transpired on the argument, on the indictment, or otherwise?

The WITNESS. So I understood the question.

Mr. STEWART. The question was whether you *knew* it. You said you "understood" it. Please answer the question.—A. Yes, sir. The answer was probably a little incorrect. I understood incidentally from Mr. Bliss that the Attorney-General had engaged Mr. Ker to prepare the indictments, and that Mr. Bliss would assist him in doing so. That was the first information I had of the employment of Mr. Ker. Up to that time I had prepared quite a number of papers in consultation with Mr. Bliss and Mr. Gibson.

By Mr. VAN ALSTYNE:

Q. You used the remark that "the court swept it out of the way." Do you mean that there was no delay in the decision of the court?—A. No delay. The decision of the court was prompt and immediate, that parties might not be indicted by mere initials.

Q. Is there anything further that you have to say in connection with this?—A. Perhaps it will aid, to some extent, when I refer to the fact that in this indictment there are two, three, four, five, six, seven—quite a number of different routes, involving different contracts and different parties, in which there was no common interest. The original conception that I had of the indictment, so far as the conspiracy was concerned, was to embrace Mr. Brady and the contractor on the single

route, and thus simplify the indictments and lessen the time required for the examination and trial of any one case. It was, in my opinion, a grave error to embrace so much in one indictment as to render it difficult for either court or jury to form a clear, concise, brief conception of the facts.

Q. So you designate the indictment as a conglomeration?—A. It is a conglomeration.

Q. Embracing a number of offenses entirely separate and distinct from each other?—A. Many of them separate and distinct.

Q. And the parties to the transactions independent of each other?—A. Many of them independent of each other. It was that which led to the great length of time consumed in the trial of the cases.

Q. And the confusion occasioned the disastrous result?—A. Yes, sir. I was asked on yesterday in reference to the character of the jury, and I stated generally that they were good men; and while I cannot remember all the names there are some (referring more especially to the last jury) which perhaps I might mention. There was a gentleman on the jury named Green, a real-estate agent, and a man of very fine ability and character. There was a man named Horringer, a blacksmith. There were one or two colored men of established character and ability. There was a gentleman of the name of Sheriff, from the county, a farmer. I think I may say in brief from personal knowledge of the entire jury, that it was composed of honorable, conscientious, and upright men, and of blended politics. The first jury was also composed of good men. Apart from the foreman there was on that jury a gentleman named Holmead, who resides in the county, a very excellent man. There was this difference in the selection of the first and the second jury: On the first trial Judge Wylie held that under the law each of the defendants was entitled to a challenge of four. On the second trial he held that that was an error, and that instead of being entitled to four they were all combined entitled to only four, so that the challenges of the defense were diminished. In the outset of the case I was authorized to consult with Mr. Boone, and did so, as I stated yesterday, for the purpose of obtaining information and making him a witness. I was also authorized to consult with Colonel Price, in New York, and I did so at the Fifth Avenue Hotel. At that time, after full consultation, he stated to me that he was entirely innocent, and submitted papers to me, and said that he could furnish no particular information. I inquired of him in relation to Mr. Kellogg and others, and he said that he never had any transactions with Mr. Kellogg, except those which related to some friendly act of contribution in a political contest, Mr. Price being a Democrat and Mr. Kellogg a Republican, but both from the same locality at one time. Mr. Price afterwards was indicted and Mr. Kellogg afterwards was indicted.

The employment of Mr. Brewster and Mr. Bliss occurred in this manner. The Attorney-General, Mr. MacVeagh, when he felt that President Garfield would probably die, called a few of us into his presence and stated that he felt a great responsibility, and that it would be wise in view of that responsibility to select our attorneys. The result was, after many names were mentioned, that Mr. Bliss was selected as one, if he would consent to act, and Mr. Brewster another. It fell to my lot to consult with Mr. Bliss. I visited New York, and he met me at the Fifth Avenue Hotel at my rooms, when I presented to him an outline of the cases. He then said that he could not give me a definite answer until he consulted with some others, but would do so next day. He returned and said that he had concluded to accept the position; and I then went to Elberon to put myself in immediate communication with Mr. Mac-

Veagh, who was there, and it was concluded that Mr. Brewster and Mr. Bliss should be appointed and a telegram sent out through the press announcing their appointment. I personally, while I could not control it, and ought not to have done so if I could, regarded the selection at that time as unwise, but the Attorney-General thought otherwise. My own belief was that the whole matter should have been allowed to pass over to the incoming President and administration.

Q. Beyond political influences was there any occasion for more than a single counsel for the proper conducting of any or all of those cases?—

A. Not in the preparation of the case. Now, how Mr. Ker came in I do not know. Mr. Merrick was selected to take the place that I vacated by my resignation, and was unquestionably the ablest attorney employed in the case. But, while that was true, Mr. Merrick never had been engaged to any particular extent in criminal practice and was not adapted to that class of practice.

Q. What is the fact as to whether the interests of the Government were delayed and consultations broken up by the absence of counsel engaged on the part of the Government?—A. That not unfrequently happened, and it is unquestionably true also that on many of the occasions when Mr. Bliss came to Washington and returned it was to attend to his own private business in New York. That he stated both to Mr. Gibson and myself, together and separately.

Q. While he was thus engaged, did the time enter in as a part of his per diem claim against the Government?—A. I do not know; but I do know that there entered into his account minute charges of expenses in traveling from New York to Washington and returning. The fact unquestionably is that in view of the compensation allowed—

Q. (Interposing.) On those same occasions to which you allude, when he went and came on private business?—A. The fact is, that when the service was accepted, in view of the character of the cases there ought to have been an abandonment of all other service. I devoted myself to this almost entirely and exclusively. In talking with Mr. MacVeagh, and also with Mr. Brewster, Mr. Gibson being present part of the time, when we were endeavoring to settle our bills, which were fixed at \$5,000 each, anything that was paid me in addition to that being for expenses that I had incurred and paid out my own money to meet, it was with difficulty that we were able to secure the \$5,000. I inquired then what would be allowed Mr. Bliss, and was startled at the announcement that he would get \$100, but the announcement then made was that that was to cover all his expenses; that there was to be nothing additional.

By Mr. FVAN:

Q. Who made that announcement?—A. Mr. MacVeagh first, Mr. Brewster afterwards. I find on page 21 of this document, in the account of Mr. Bliss, a charge for board for $16\frac{3}{4}$ days \$167.50; charges for baggage, fire, messengers, tickets, postage-stamps, 6 cents, and washing, \$7.75; making in all \$225.18. Now it does seem remarkable that those expenses should be embraced, and that the washing of the linen of an attorney should be paid for and certified by Attorney-General that it could not be done.

Mr. STEWART. It seems to me that this is entirely aside from the vocation of this witness. That is a matter that the committee can judge.

By the CHAIRMAN:

Q. Were there any such items in your bill?—A. Not such items as

that; when I went to New York in reference to the case I put in the incidents of travel.

Q. You have stated that you devoted your time exclusively to the business of the Government?—A. Yes, sir.

Q. And without interruption during the day?—A. Yes, sir.

Q. Is there, so far as you know, any reason why there should be any difference, if the payment was by per diem, in the allowance to Mr. Bliss over yourself other than that he is a different person?—A. None whatever.

Q. Was it possible for him to give greater attention or to apply himself more industriously to the extent of his ability than you did?—A. No, sir.

Mr. STEWART. That is rather a curious question and a curious answer.

By the CHAIRMAN:

Q. What do you say as to the compensation that has been awarded

Mr. Bliss, as appears from the report of the Attorney-General, as being in excess of what was really earned by Mr. Bliss in the cases?—

A. I have no hesitation in saying that it was extravagant, unjustifiable, and unearned in every respect.

Q. Having gone thus far, state what you would regard as a fair compensation for all that you know or are able to see from looking at the case for his services?—A. An ample compensation for what was done in those cases, in the condition in which Mr. Bliss found them, would have been not more, I think, than \$20,000. That would have been ample.

By Mr. STEWART:

Q. On what terms are you with Mr. Bliss personally?—A. Mr. Bliss and I have been upon the best personal terms. I was associated with him in one or two private cases prior to the star-route cases. I have not been on any terms with him at all since our connection with the star-route cases ceased. I have had nothing to do with him. I have no enmity towards him, nor I trust towards any other human being.

Q. Yes; well you were not on good terms, were you, after you left the employment of the Government in this case?—A. Yes, sir. There was no difference, no rupture between Mr. Bliss and myself. I was not aware of some of his clandestine acts. I learned them afterwards.

Q. Then you are not on very good terms with him at present?—A. I have no unkind feeling toward Mr. Bliss.

Q. You have no kind feeling toward him?—A. I have this feeling simply. I have perhaps no personal feeling. I have a feeling which arises from a deep conviction, from the knowledge that I have of the cases, that they were improperly handled and conducted, and that improper amounts have been charged against the Government and received for the labor done. It is a matter of no personal consequence to me, for I have more professional business than I can attend to.

Q. You have said you did nothing in your own business when you were so engaged. You had, I suppose, a large practice on your hands when you took employment from the Government?—A. I had in a calendar of perhaps 600 cases, *nisi prius* cases probably one-seventh.

Q. You gave no attention to them while you were employed by the Government?—A. I gave no attention. It was my purpose—

Q. You did nothing with reference to your private practice in all that time?—A. Oh, I may have said something to my partner incidentally.

Q. If you said anything it was merely accidental?—A. I said incidental. I do not think I entered into court in the trial of any important case in which I was employed.

Q. You did not have any consultations with reference to any of your private cases, nor examine any authorities?—A. I had occasional consultations in the office and made occasional inquiry with regard to cases. But apart from that I devoted my time both night and day to the star-route cases. It was no common task to comprehend them.

Q. I understand your judgment to have been averse to the judgment of the principal counsel in the management of the star-route cases. You entertained a different opinion from what the leading counsel did?—A. I entertained a different opinion from what they appeared to entertain ultimately with regard to the cases. Originally there was no difference between Mr. Bliss and myself about the cases.

Q. I suppose the counsel, Mr. Bliss, Mr. Merrick, the Attorney-General, and Mr. Ker, all concurred in the propriety of prosecuting this principal case upon the indictments which were found?—A. That is a matter of which I have no personal knowledge.

Q. What do you think about it?

The CHAIRMAN. That is speculation.

The WITNESS. I am perfectly willing to give my thoughts if the committee desire it.

Q. Well, I do not care to press that. Now in regard to the value of the professional services of Mr. Bliss, I suppose the sum that an attorney is entitled to charge for special employment depends somewhat upon the value of his time to himself in his private practice; is not that one element that enters into the consideration of the question?—A. That is an element that will enter into his consideration in his accepting any employment that is offered to him. Whether it should be a consideration on the part of his employer is entirely a distinct question.

Q. Do you mean that the employer should omit that from his consideration?

The CHAIRMAN. He has said in substance that this was a political employment. That the selection was made on political grounds.

Mr. STEWART. Oh, he does not mean that. He would not take the responsibility of saying that.

The WITNESS. I directly and absolutely take the responsibility of so saying.

By Mr. STEWART:

Q. Do you think the Attorney-General would have employed Mr. Bliss if he had not been a lawyer?—A. No, sir.

Q. Then his professional character had something to do with it?—A. That was a mere incident. The chief and controlling consideration which led to the employment of Mr. Bliss was that he was an intimate personal friend of Mr. Arthur.

Q. Have you read the testimony of the Postmaster-General on the subject?—A. I have not read it, and it would not change anything that I am stating.

Q. Who advised the President to employ Mr. Bliss?—A. He never was employed by the President.

Q. Who advised the Attorney-General to employ him?—The Attorney-General called a consultation consisting of the Postmaster-General, Mr. Gibson, and myself, and perhaps one or two others, in relation to the employment of attorneys, and at the time one of the considerations

most strongly urged in favor of the employment of Mr. Bliss was that President Garfield would probably die, and that it would be wise to select some one who was on intimate terms with the Vice-President.

Q. Now, was it not also said and urged by the Postmaster General to the Attorney-General that Mr. Bliss was a man entirely competent and a man that he desired should be employed by reason, not only of his personal relations to President Arthur, then Vice-President (if it was before Mr. Garfield's death), but for other reasons?—A. The Postmaster-General stated distinctly that Mr. Bliss was a good and able attorney, and urged that as one reason of his employment.

Q. That is the point. You said that he was employed exclusively for political reasons, and the chairman of this subcommittee stated with considerable emphasis that it was a political appointment. Now, was it not for both political and professional reasons that Mr. Bliss was appointed?—A. I do not believe that Mr. Bliss would ever have been appointed if the intimate relationship between him and the present President had not existed.

Q. That is not the question. You evade the question.—A. I do not wish to evade it.

Q. I don't know whether you do or not. You do evade it. The question is not whether he would or would not have been appointed, but whether his professional reputation as a skilled lawyer was not a consideration which entered into the mind of the Postmaster-General and the Attorney-General, and which led to his employment?—A. It may have been.

Q. What do you think of it? Answer the question squarely.—A. So far as I was personally concerned, I regarded Mr. Bliss as an attorney of ordinary ability. That was the result of my experience with him. I have never changed that opinion. But when there was laid alongside of that the importance of having some one who was intimate with the President employed, I favored the selection of Mr. Bliss.

Q. You speak of Mr. Bliss's ordinary ability; that is a thing I don't know anything about; I am only speaking of his reputation. I suppose that at that time you regarded him as a man of ordinary ability in his profession?—A. I did; and that is the opinion that I entertain of him to-day.

Q. I do not know that you are not correct about that.—A. Of course not; but I do.

Q. You know, I suppose, that he has a large and valuable practice?—A. I do not know it.

Q. You spoke of Mr. Ker as a "supposed expert"?—A. Yes, sir.

Q. What did you mean by that phrase—supposed expert?—A. I meant this: It was represented to me that he was selected by Mr. Brewster to prepare indictments because of his great competency to do so. I had no personal acquaintance with him, nor have I now; but the first manifestation of his competency I found in that indictment, in which there was a most stupid and unjustifiable use of the initials of two parties. I meant, therefore, by the language which I used, that there must be a mistake as to his being an "expert," that no expert would have perpetrated so manifest and plain a blunder as that indictment contained, which entailed upon the Government a large amount of expenditure.

Q. You do not, I presume, suppose that Mr. Ker did not know as well as you do that you could not indict a man by his initials?—A. If he knew it I cannot account upon any theory of integrity or uprightness for the use of the initials found in the indictment.

Q. Do you know how that error crept into the indictment?—A. I know that the full names of both Mr. Rerdell and Sanderson were accessible.

Q. That is not an answer to my question.—A. I do not know how that crept in.

Q. You don't know whether it was a mistake of the scrivener or copyist or whether it was Mr. Ker's mistake?—A. I know this, that Mr. Ker attempted to justify the indictment with the initials when the matter was called to the attention of the court. I was present when that attempt was made.

Q. You never have heard any explanation of how that mistake occurred?—A. Only the explanation made in open court, that the use of the initials was proper, and that the presentation of the full name was not required.

Q. That would not be an answer to my inquiry. That was a mere argument addressed to the court as to whether writing the full name was necessary. I am asking about whether any explanation ever came to your knowledge of how those initials got in there?—A. The explanation was found in the fact, as I comprehended it, that the indictment, with the initials, was justified by Mr. Ker.

Mr. STEWART. Well, it was justified on perhaps an unusual practice of trying to get out of a difficulty as well as possible. If he could persuade the court to let the indictment stand, I suppose he wished to do so.

By Mr. FYAN:

Q. The explanation, as you understand it, was that this gentleman, Mr. Ker, thought that was a proper way to draft the indictment?—A. Yes; that was it.

Mr. STEWART. You do not think he thought so.

The WITNESS. How can I think anything else, when he stood up in court and tried to justify the use of the initials?

Mr. STEWART. You cannot think that any lawyer would argue that it was not necessary to set forth a man's name in full in a criminal indictment?

The WITNESS. But I heard it argued. I was amazed.

Mr. STEWART. Oh, well, Mr. Ker was speaking in a professional or Pickwickian sense, I suppose?

The WITNESS. He may have been, but I was amazed. In connection with that there lies another significant fact which, perhaps, it is my duty to present to you. Sanderson, whose initials were used in that indictment, was not embraced in the second indictment. In the mean time he spent a considerable portion of his time in the city of Washington, and was at the Arlington Hotel, and I have been credibly informed that he stated to a gentleman whose name I can give the committee, but prefer giving it privately, and who at one time had been a broker for him, that he was going home, that Mr. Bliss had told him that he would not be embraced in the second indictment.

Mr. STEWART. If that is the fact I should like to have it known, because it is part of our business to find out.

The WITNESS. I should regret if I should do anything else but humbly assist you to arrive at the real facts.

(The witness here wrote the name of the broker above referred to on a piece of paper and handed it to the chairman.)

By Mr. STEWART:

Q. Is the man a resident of Washington?—A. Yes, sir. [To the chair-

man.] I would rather that the gentleman sitting back of you [Mr. Brewster Cameron] should not see the name.

Mr. STEWART. Mr. Cameron never sees anything.

The WITNESS. No; I am aware of that.

Another fact. You observe that M. C. Rerdell's initials also are used. M. C. Rerdell afterwards became a witness in the case.

Now, I have, if the committee will indulge me, one more matter, and only one more, to which I beg leave to direct attention. This matter is to some extent personal, yet it is directly connected with the subject-matter of investigation. In the Philadelphia Press of May 24, 1883, there was an interview with the Attorney-General headed "Star Route Expenses," and in the close of that the statement had been made by Mr. Brewster to the correspondent that—

The defendants not only used the proceeds of their robberies to pay counsel, but the money was expended in spiriting away witnesses, in buying up ex-counsel of the Government, and in hiring newspapers to defend their rascality. The Government has paid for all this. The expenditure of every dollar used by the Department in the prosecution of these cases was authorized by Congress. The Appropriations Committees of the House and Senate were fully advised of the use made of our funds, and, understanding the character of the expenditures, the sum that this Department asked for was voted.

"What do you mean by the assertion that the defendants bought ex-counsel for the Government in these cases?" asked the correspondent.

I mean that J. M. Bosler, of Carlisle, Pa., showed Mr. Bliss his books containing a record of payments made by him on account of expenses incurred in the defense of these suits, among other things, and Mr. Bliss told me that Bosler's books contained entries of several thousand dollars paid the law partner of Mr. William Cook and Mr. A. M. Gibson. Both Mr. Cook and Mr. Gibson were originally retained by the Government in these cases, and I dismissed them because I felt that their services could be dispensed with.

When this paper was sent to me marked, I at once addressed the following letter to the Attorney-General:

WASHINGTON, D. C., June 7, 1883.

SIR: My attention has been called to an interview with you published in the Philadelphia Press of May 24, ult.:

It appears that, among other things, you stated to the correspondent of the Press that the defendants in the star-route cases not only used the proceeds of their robberies to pay counsel, but "the money was expended in spiriting away witnesses, in buying up ex-counsel of the Government, and in hiring newspapers to defend their rascality. The Government has paid all this."

It also appears that the following question was asked you, viz: "What do you mean by the assertion that the defendants bought ex-counsel for the Government in these cases?" To which you responded: "I mean that J. M. Bosler, of Carlisle, Pa., showed Mr. Bliss his books containing a record of payments made by him on account of expenses incurred in the defense of these suits, among other things, and Mr. Bliss told me that Bosler's books contained entries of several thousand dollars paid the law partner of Mr. William Cook and Mr. A. M. Gibson. Both Mr. Cook and Mr. Gibson were originally retained by the Government in these cases, and I dismissed them because I felt that their services could be dispensed with."

Allow me to inquire whether you are correctly represented in these extracts from the Press.

You will observe that they contain, first, a strong and plain implication that, as one of the ex-counsel in the star-route cases, I was bought by the defendants; and, second, a positive assertion that you dismissed me as one of the original counsel. I will be pleased to receive an early reply.

Respectfully,

WILLIAM A. COOK.

BENJAMIN HARRIS BREWSTER,
Attorney-General United States.

I received no reply to that letter.

By Mr. FYAN:

Q. Did you address that letter personally to him?—A. Personally,
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and had it delivered to him personally. Not having received any reply, I wrote him again, a few days later, as follows:

As you have not seen fit to reply to this letter, I am compelled to conclude that your utterances to the correspondent of the Philadelphia Press were correctly reported. Indeed, this was a reasonable presumption; but I deemed it proper to afford you a fair opportunity for explanation or correction.

I am not accustomed to notice misrepresentations or censure which the uninformed or malignant may circulate or publish against me. I have neither time nor inclination to do so. But your accidental position as Attorney-General of the United States imparts to your accusations an importance which they would not possess if they emanated from you as a private individual, and therefore both public and personal respect require that they should receive a proper denial from me.

CHARGE OF FALSE STATEMENTS.

It is utterly false that the defendants in the star-route cases in any manner bought me as one of the ex-counsel. No one of them had the audacity to attempt it. I believe that Mr. Cole was for a while employed by Mr. Rerdell, but I am credibly informed that he gave a receipt for his fee, which was turned over to the Government. It is presumed you know this fact. Moreover, you were not ignorant of the truth that Mr. Cole and I were only limited partners in civil cases. This information you had twice from my lips, so that your assertion was not only untrue, but made with full information of the actual facts.

Second. The declaration that you dismissed me as one of the original attorneys in the star-route cases could not be surpassed in the realm of bold and audacious misstatements.

On March 14, 1882, I sent you a written and unsolicited resignation of my appointment as a special attorney. On the 17th of that month you transmitted me a reply, in which you said that my letter of resignation was a surprise to you, and that you could not see the necessity for it; that my retirement was the conclusion of my own judgment, and that had I continued in the cases and labored in them my usefulness would have been appreciated.

It cannot therefore be doubted that when you made the assertion that you had dismissed me you knew it was utterly untrue.

The intellectual and moral depravity which tempted and impelled you to malign and misrepresent me as you have done I am unable to comprehend. You probably can.

It only remains for me to state that I will publish this reply to your manifestly malignant falsehood in the public press, and pursue any other plan of vindication I may deem proper.

An Attorney-General of the United States cannot assail my professional or personal character with impunity, especially one who attained his distinguished position amid the smoke of an assassin's pistol, and possibly by means which reflect little or no credit on exalted manhood.

Yours, &c.,

WILLIAM A. COOK.

That I transmitted to him.

Q. How did he enjoy that?—A. I don't know. In the mode in which he assailed me I sent forth the response.

By the CHAIRMAN:

Q. In the last interview you had with Mr. Garfield before he was shot did you say anything to him as to your being able after a time to inform him of the sources of danger that you anticipated?—A. I said to him that I might. And I omitted yesterday what was communicated to me as a fact, that the Attorney-General about that time had received various anonymous and threatening letters in consequence of his vigorous action in the star-route cases.

By Mr. FYAN:

Q. Did you see those letters?—A. No, sir; the Attorney-General stated to me that he had received some.

By Mr. STEWART:

Q. Those were threats addressed to the Attorney-General?—A. Those

were threats addressed to the Attorney-General. There is one more matter: On yesterday questions were propounded to me in relation to an article in the Sun. I think they were propounded by Mr. Milliken. I observe that in the committee of which Mr. Money is chairman, the Committee on the Post-Office and Post-Roads, Mr. Woodward, appeared and stated that he furnished to me a copy of the statement.

Mr. WOODWARD. Have you read the evidence that was taken in that committee-room?—A. I have read it as it appears in the papers.

Mr. WOODWARD. It is entirely incorrect in the papers.

The WITNESS. As it appeared in the papers it contains that statement. I wish to say, first, that Mr. Woodward never furnished me any such paper in relation to Mr. Ellis, or any paper relating to Mr. Ellis; and, in the second place, that if he has such a belief as the press report of his testimony indicates, it is without any foundation whatever in fact. I never saw the Sun article until——

Mr. WOODWARD. I never intimated in my testimony that he did. The report is incorrect.

The WITNESS. Very well; I am happy to hear it. It is a gross misrepresentation.

Mr. VAN ALSTYNE (in the chair). I will state to the committee that a communication was sent down a little time since from the Post-Office Committee, who are investigating that matter, requesting that Mr. Cook might be relieved from attendance here, for the time being, in order to appear there.

Mr. WOODWARD (to Mr. Cook). When you go there read my evidence on that point.

The WITNESS. I have this request to make of the committee: If hereafter any of the essential statements which I have made should be contradicted by any witness, I may have the privilege of again appearing before the committee and furnishing corroborative evidence, for I have made no essential statement but what can be sustained by the testimony of others and by papers.

(Examination suspended.)

WASHINGTON, *March* 12, 1884.

A. M. GIBSON recalled and further examined.

By Mr. VAN ALSTYNE:

Question. You have already stated that you were associated with Mr. Cook in the work which you and he were doing for the Government in relation to the star-route cases. Do you remember the indictment that was drawn against Brott and Lilley?—Answer. Yes, sir.

Q. Who drew that indictment?—A. Mr. Cook and myself.

Q. How many indictments were there?—A. I forget.

Q. Two or more?—A. There were two, and my recollection is that there were more. My recollection about that is this: The drafts of the indictment were made, and Mr. Bliss looked over them and made some changes in them, and Mr. Taggart, who is assistant district attorney for this District, came afterwards to Colonel Cook's office and we went over them again, and in that shape they were presented to the grand jury and found.

Q. Who really did the work of drawing those affidavits, and how long a time was occupied in looking them over and making corrections and revising them as to details generally?—A. Oh, I do not think there was a great deal of time occupied. It was a very simple matter to draw those indictments under the section of the Revised Statutes which provides for such cases. My recollection is that the indictments were drawn one evening and presented to the grand jury next morning.

Q. You say you went over them together; did you draw them over again, or simply look them over?—A. I have stated that the drafts of the indictments were made by Colonel Cook, and that Mr. Bliss revised them, and that subsequently Mr. Taggart and myself went over them, which would make a second revision.

Q. Under what authority were those indictments brought?—A. One indictment was under section 5051, I think, of the Revised Statutes, for procuring an officer of the Government to pass a claim improperly. You will probably remember that provision of the Revised Statutes. Then there is another section, you know, which provides a penalty for an officer of the Government allowing a claim from improper motives.

Q. Who were the respondents in those indictments?—A. Brott and Fred. B. Lilley. Lilley was deputy auditor of the Treasury for the Post-Office Department.

Q. The offense was of frequent occurrence, or at least not unusual?—A. Not unusual.

Q. Was there anything special in the indictment that required either extraordinary skill as a draftsman or as a lawyer?—A. No; such indictments are usually drawn up by clerks in lawyers' offices.

Q. Were there not, as a matter of fact, skeleton forms of indictments, so that all a man was required to do was to fill in the facts and the name?—A. There are skeleton forms. Usually, however, district attorneys have their own forms drawn up.

Q. But I understand you to say that those indictments were in effect complete when they were submitted to Mr. Bliss for his inspection?—A. Yes, sir; that is my recollection of it.

Q. What corrections did Mr. Bliss make?—A. Oh, I don't recollect. I have only a vague idea of that.

By Mr. FVAN :

Q. I may have misunderstood you, but I understood you to say that Mr. Cook drafted the first rough draft, and that then the indictments were revised by Mr. Bliss.—A. They were looked over by Mr. Bliss. I do not think he changed them at all.

Q. You were connected with Mr. Cook when the original draft was made?—A. Yes, sir.

Q. How much time was occupied in clerical work, in connection with that indictment, from its original drafting—that is, by Mr. Cook or by yourself—until its final finding?—A. I do not know. It would be a good half day's work, probably, to draw both the indictments.

Q. Did that work extend over two days from its commencement to its end?—A. Not continuously, of course.

Q. Well, with breaks?—A. There may have been intervals. There may have been a suspension of more than a day during the progress of the work. I do not remember exactly. I do remember that Mr. Taggart and I went over all of the indictments in the course of one evening.

By Mr. VAN ALSTYNE (in the chair):

Q. What would be a fair compensation for the drafting of an indict-

ment of that character?—A. I would like to take a contract for them at \$25 apiece.

Q. Would you regard that as ample pay?—A. I would make lots of money at the business if I had enough of them to draw. Now, Mr. Chairman, I am going away from the city, and I do not know that I shall have another opportunity to say what I desire to say, so I think I will embrace the present one. The statement has been made—Mr. Ker made it in a letter, and it was made by Mr. Bliss in the course of the second trial of the star-route cases—that the books of J. B. Bosler showed that I had received payments from him while I was in the employ of the Government. There is no truth in that statement. Mr. Bosler employed me six months after I had left the service of the Government. He paid me, on the 15th of June, \$1,000, by a draft on Kountz Bros., of New York, which was collected by me through Riggs & Co., of this city. On the 8th of July, 1882, he paid me \$1,500 in the same way.

By Mr. FVAN:

Q. For what service?—A. For services rendered to Mr. Bosler.

Q. Services not connected with these cases?—A. The circumstances were these: Mr. Bosler supposed that he was likely to be brought into trouble through Mr. Rerdell, and he employed me, and he was not.

Q. That was after you had resigned as counsel for the Government?—A. Yes, sir; nearly six months after.

Q. What services did you render Mr. Bosler?—A. Legal services. He followed my advice.

Q. What kind of legal services?—A. I gave him some advice, and he took it.

Q. Did you furnish him any information that you had obtained while you were engaged for the Government?—A. Oh, none whatever. Mr. Brewster, the present Attorney-General, in the final argument on the first star-route trial, eulogized Mr. Bosler as an honest man.

Q. Can you state what you did for this \$2,500? Did you do anything but give advice?—A. I did nothing but advise him.

Q. Where were you when you advised him?—A. In Washington.

Q. Can you fix the dates?—A. No; I cannot fix the dates. I came here one time from Atlantic City at his request.

Q. Was that all the money Mr. Bosler paid you?—A. That was all.

Q. You never did anything for him in any of the courts?—A. No, sir.

Q. There were no indictments against Mr. Bosler?—A. No; there was no attempt to indict him.

Q. So that he consulted you as an attorney in relation to supposed indictments that might be brought against him by the Government?—A. In relation to Mr. Rerdell, who afterward testified. Rerdell made a demand upon Mr. Bosler for \$5,000.

Q. How do you know that?—A. He showed me the papers.

Q. Who did?—A. Mr. Bosler.

Q. Papers from Rerdell?—A. Yes, sir; a letter from Rerdell and a telegram.

Q. Do you say a letter or a telegram, or both?—A. My recollection is, a letter and a telegram.

Q. Do you know Rerdell's handwriting?—A. No.

Q. Have you never seen him write?—A. I have never seen him write.

Q. How do you know that it was from him?—A. It was signed "Rerdell."

Q. Where was the letter postmarked?—A. At Washington.

Q. Where was it sent to?—A. Carlisle, Pa.

Q. What was the date?—A. I do not recollect the date of it.

Q. Where did Mr. Bosler show you the letter?—A. When he came here.

Q. What time was that?—A. I do not recollect the date. It was some time in June.

Q. What year?—A. 1882.

Q. Where was the telegram from?—A. From Washington.

Q. What was the date of it?—A. Some time after the letter, I believe.

Q. Was it sent to Carlisle, Pa.?—A. Carlisle, Pa.

Q. Can you give the substance of that telegram?—A. The substance of it was: "If you know when you are well you will pay my draft for \$5,000."

Q. That, you say, was addressed to Bosler, signed by Rerdell, and sent from Washington to Carlisle, Pa., some time in June?—A. I think it was some time in June, but I have no distinct recollection as to the date.

Q. Can you give us the substance of that letter?—A. No, sir.

Q. Do you not recollect it?—A. My recollection is that Rerdell had drawn a draft or was to draw a draft on Mr. Bosler for \$5,000, and that he told him he had better pay it.

Q. The letter, as I understand you to say, was dated prior to the telegram?—A. I think so.

Q. What length of time intervened between those dates?—A. A few days.

Q. How long after you received this telegram was it before Mr. Bosler employed you?—A. Mr. Bosler came here, I think, immediately after that.

Q. And then he gave you \$1,000?—A. Not at that time.

Q. When did he?—A. He paid me 1,000 on the 15th of June. I know that simply by my bank account.

A. How long after that was it that he paid you the other \$1,500?—A. It was on the 8th of July.

Q. Was there any additional reason for that payment? Did you say that you would charge him \$2,500 originally?—A. I told him I would charge him \$2,500.

Q. You told him that when he first employed you?—A. Yes, sir.

Q. Why did he not pay it, then?—A. I did not ask him.

Q. Did you ask him for any of it?—A. No, sir.

Q. He voluntarily tendered you the \$1,000?—A. That is my recollection. Mr. Bosler was a perfectly good man. I knew his reputation.

By Mr. VAN ALSTYNE:

Q. Did you possess knowledge of any fact bearing upon Mr. Bosler in connection with these star routes—any fact which you had obtained from the Government?—A. None whatever.

Q. Had you acquired any additional knowledge of that kind from the time you quit the service of the Government down to the time you saw Mr. Bosler?—A. No, sir.

By Mr. FYAN:

Q. Did you keep copies of any of the papers or affidavits that came into your hands as an attorney for the Government?—A. No, sir; I not only kept no copies of what papers I examined, but I left at the Department my letter books and papers that I possessed before I was employed by the Government, and they are, or should be, there now.

Q. I will ask you the direct question, Did you sell any information to Mr. Bosler, or anybody else, that you had acquired as attorney for the Government?—A. No, sir; I never sold any information. I was extremely careful, on leaving the service of the Government, to leave everything there in the Department that I had taken there.

By Mr. STEWART:

Q. What gave your advice to Mr. Bosler, under these peculiar circumstances, the value which he recognized by paying you \$2,500? Did it not depend on your knowledge or information of these star-route matters?—A. I do not care to state to the committee what advice I gave Mr. Bosler, but I will say that it was entirely disconnected with the star-route cases.

By Mr. FYAN:

Q. You say you do not care to give it. Do you mean that you do not desire to do it, or that you are unwilling to do it?—A. It is not proper that I should do so.

By Mr. VAN ALSTYNE:

Q. Do you mean to go to this extent in your remark, that the advice which you gave Mr. Bosler did not have relation to a matter existing between Mr. Bosler and Mr. Rerdell growing out of the star-route transactions?—A. I do not quite comprehend your question. I knew nothing whatever of Mr. Bosler's and Mr. Rerdell's connection. I knew, of course, what Mr. Bosler had told me about his connections with the star routes. I knew that the records of the Department showed that Mr. Bosler was the holder of drafts on the future pay on many routes, which is not an uncommon thing. The advice, however, which I gave Mr. Bosler was entirely outside of any relation that might exist between Rerdell and him.

By Mr. FYAN:

Q. In this matter of Mr. Bosler's anticipating prosecution from the Government, was he apprehensive of that, and did he employ you to defend him if he was prosecuted?—A. Mr. Bosler was chiefly apprehensive of being smirched. Being a gentleman of large means and somewhat prominent in Pennsylvania, and an active politician, he was extremely anxious that he should not be drawn into this business.

Q. You say he was afraid of being smirched; smirched how—by the newspapers, or by an indictment?—A. I mean that he was afraid of being drawn into this star-route matter.

Q. How drawn in, by an indictment against him by the Government?—A. By an indictment against him, or by—

Q. Well, if he did not anticipate an indictment, why was he employing you as an attorney?—A. I have not said that he did not anticipate an indictment.

Q. That is what I am trying to get at.—A. The demand which Rerdell made on him, and the threats that he would go before the grand jury and have Mr. Bosler indicted, gave him that impression.

Q. Indicted for connection with the star-route cases?—A. For connection with the star-route cases.

Q. And in case he were indicted, he wanted to employ you as an attorney, and did employ you?—A. He wanted to employ me as an attorney to prevent his being indicted.

Q. To prevent his being indicted?—A. Yes, sir; to prevent his being in any manner drawn into these cases.

Q. He was not indicted?—A. He was not indicted.

Q. You earned your money?—A. I earned my money, which I had a perfect right to do. Because a man has been once employed by the Government, it does not follow that he is precluded from other employment.

Q. You say you earned your money? Do you think your efforts prevented Mr. Bosler from being indicted?—A. Well, I do not know. I know there was no attempt to indict him.

Adjourned.

WASHINGTON, D. C., *March* 13, 1884.

WILLIAM A. COOK recalled and further examined.

By Mr. VAN ALSTYNE:

Question. At the time your examination was suspended I believe you were speaking of the incidents attending the appointment of Mr. Bliss?—Answer. Yes, sir.

Q. If there is anything further in connection with that matter that has not been fully detailed you may now present it.—A. Yes, sir; I referred to it as a political appointment. I did not mean by that that there was necessarily no reference to the fact that Mr. Bliss was a lawyer; but that, while he was a lawyer, he never would have been selected for the position that he was selected for except for partisan considerations. Let me illustrate that. In the consultation which we had in reference to the selection of additional attorneys the names of several prominent gentlemen were mentioned. I mentioned, for instance, General Butler, with whom I had been connected on various occasions, and Judge Fullerton, of New York, with whom I had been associated in several cases, and other men of corresponding national reputation. The name of Mr. Henderson, of Saint Louis, was mentioned, and the objection was at once raised to him that, while he was a very able attorney, it would not be wise or prudent to select him, because he had been engaged in connection with the prosecution of the whisky-ring cases against General Babcock and others, and, manifestly, would not be acceptable to the incoming President, and that became a controlling consideration in his rejection.

Q. Was it stated why?—A. Because of his antagonism to one element of the Republican party and his connection with the whisky-ring cases as against General Babcock (for whom I was an attorney) in the trial of those cases. On the other hand, while it was manifestly, it seemed to me, conceded that Mr. Bliss was not of the same degree of eminence, yet the fact of his intimate association with President Arthur became unquestionably the consideration which led to his employment. It is to be observed that neither Mr. Bliss nor Mr. Brewster was selected by President Garfield; and while it is not a fact that I can testify to, yet I am satisfied as matter of inference that they never would have been selected had he continued as President.

Q. Is there anything further connected with that?—A. I think not; I have given you now the facts as they occurred in the selection and the motives and considerations which led to the selection.

Q. Is there anything connected with the indictments against Mr. Brady and others that has not been detailed in your examination?—A. Nothing, perhaps, special, except that I find by reference to the Star

of March 20, 1882, in an interview chiefly in relation to myself (to which part I do not propose to refer), that Mr. Ker says distinctly that "Colonel Bliss did not supervise the bills of indictment at all; they were left entirely to me. Sometimes, coming into my office, out of mere friendship he would casually glance over the sheets as they lay on the table, but he never examined any of them." He closed by saying that "there is enough of documentary evidence on file now to convict these people without the use of a single witness on the stand." Then, perhaps, although it is not in the nature of an exact fact, I ought to call attention to the difficulty in this indictment from its conglomeration of cases and from the peculiar manner in which the various accusations are made, and to the fact that there were filed motions to quash which were overruled, but which might be ultimately sustained. I have a copy of this indictment in print which I may as well leave with you. Now, in that indictment, which originally embraced Sanderson, it will be found that there are a large number of cases involved, including different and distinct offenses, and in different and distinct States and Territories. Thus, two routes in California, 46132 and 46147, and routes in Colorado, Oregon, and several States and Territories embrace various contracts and various considerations.

Q. Those contracts were separate and distinct from each other?—A. Yes, sir.

Q. Separate transactions with the Government?—A. Yes, sir. I will leave with you also a copy of the information which was a substantial indictment in which we framed an indictment on the one route alone. Now, it was the fact which I have just pointed out which led to a protraction of the trial; and I ought, perhaps, to give you a correct idea of how that was. The first indictment, which embraced the initials of Sanderson and Rerdell, was filed March 4, 1882, and was number 14262. The second indictment was filed May 20, 1882; so that the errors in the first indictment created a delay from March 4 to May 20. When the new indictment was found, it was substantially the same as the first, with the exception that Mr. Sanderson was dropped out. On the first indictment the trial began June 1, 1882, and ended September 11. On the second indictment it began December 12, 1882, and ended June 4, 1883. Had the indictments been framed on any one of the cases it could not have taken more than two or three weeks to try any one of them. The strongest indictment could have been presented on the strongest case, and initial convictions perhaps had.

Q. Was the trial continuous during all this time?—A. Yes, sir; with an occasional adjournment.

Q. From Friday until Monday?—A. Yes, sir; sometimes they failed to sit on Saturday, and during all that time the jurors and others were abroad—I mean that they were out.

Q. You say that if the indictment had been drawn to cover what you regard as the necessary counts, the trial might have been concluded within a few weeks?—A. Within a few weeks. Mr. Brady and the officers of the Department would necessarily have been involved in any one of the cases in connection with the contractor. That, too, was in harmony with the original plan we had proposed. I proposed to go before the grand jury with the papers carefully selected in each distinct case, and procure an indictment against Mr. Brady and the officers of the Department in connection with any one single route, selecting those that might be regarded as the strongest cases; and the information was drawn upon that plan. There was also another plan. The original plan that I had, involved the indictment of the officers of the

Government distinctly from the contractors for malfeasance in office, and the indictment of the contractors and their immediate associates in the alleged "ring" separately.

Q. What effect would that have had as to simplifying the case and the proof that would be required for a conviction?—A. The conception that I had was that it would simplify the cases very much, and at the same time enable us, perhaps by the procurement of indictments, to arrive at the truth as between the Post-Office officials and the contractors to an extent that we otherwise could not—that it might induce contractors, if there had been any wrong, to come forward and candidly disclose the actual facts to us. But as the indictments were framed, you will observe, it created a combination of interests between the officials of the Post-Office Department and the contractors, and as that indictment was framed it created a combination of a number of contractors together with the Post Office officials in the trial of the case so as to require the Government to meet combined efforts which they otherwise would not have been required to do.

Q. And the statute was broad enough to cover that proposition?—A. There was no trouble about that whatever.

Q. You were inquired of yesterday as to who composed the juries at the two trials?—A. Yes, sir.

Q. You have that list now?—A. Yes.

Q. I don't care about your stating who they were.

(The witness produced the list.)

Q. Is there anything further upon that subject that has not been detailed?—A. I ought perhaps to refer more minutely to the Lilley and Brott indictments, the Lilley indictment being for misconduct in office.

Q. What was Mr. Lilley's position?—A. He was Deputy Sixth Auditor of the Treasury. On December 3 there were found against him six indictments: Nos. 14131-2-3-4-5, and 6; and against Brott, on the same day, two indictments: Nos. 14137, 14138, for giving to Lilley money to influence his action as Deputy Auditor. Those indictments rested upon plain and simple evidence, and while filed December 3, 1881, they have never been taken up in any form whatever. Their trial would have embraced, perhaps, three or four days, or a week at most.

Q. The investigation of those cases fell within the purview of your employment?—A. Yes, sir. I prepared the indictments chiefly. They were examined somewhat by Mr. Bliss, but I was more particularly aided in their preparation by Mr. Gibson.

Q. Was the character of the evidence which you became possessed of such as would demand an investigation and prosecution of those cases in the healthy administration of justice?—A. I had no doubt about that. It consisted chiefly, though not exclusively, in a statement made by Brott himself, and the sections of law involved were 5451, 5440, and 5438.

Q. Were those statements made under circumstances which would authorize their admission as evidence without a criticism which would impair the force of the confession, if it was such?—A. The statements, so far as I know (they were not made to me directly), were made in the regular course of an investigation of the transactions of the Department, and there was no regulation allowing anybody to escape upon his mere confession or statement, unless upon a full view and consultation with the Department of Justice, and with the President also, if necessary, it should be deemed proper to accept the statement and accept the party as a witness, and thus release him from indictment,

but in that case the confession would have released Brott only and would have operated against Lilley.

Q. Do you know why the prosecution has not been followed up?—A. I have no reasons within my personal knowledge; I have formed convictions on the subject, but they would perhaps not be testimony; I have no doubt, however, of their correctness.

Q. Have you anything further upon that subject?—A. I think not; I think I have given you all the facts with regard to the indictments.

Q. At the time of the engagement of any of these special counsel was there anything said about the per diem or any reason assigned for payment of a special sum?—A. I read you, on the first day that I was examined, a provision of law which required, according to my view of it, that when a special attorney was employed that there should be a stipulation as to the compensation. I was unable, however, to get any sum fixed, but was told generally, personally, that a just compensation would be paid. The entire amount allowed me was \$6,000 for about ten months', not quite ten months' labor, making about \$20 a day. That was, both by Mr. MacVeagh and Mr. Brewster, as appears by the letter that I have furnished here, as well as otherwise, regarded as a just compensation to me. Immediately afterwards the compensation allowed Mr. Bliss was justified upon the assumption that he was a New York lawyer, and that New York lawyers were accustomed to charge more largely for their professional labor than I was; it was then limited, however, to a clean hundred dollars. When Mr. Ker came in, as he was a Philadelphia lawyer and not a New York lawyer, the compensation, according to that rule, would have been less; and when Mr. Merrick came in, who was, like myself, a Washington lawyer, it should have been less still; but they both were allowed a compensation equal substantially to that given to Mr. Bliss. How far I ought to state that which has come to me as rumor I do not know, but there is a fact in connection with the employment of Mr. Merrick that was stated to me once or twice, though I cannot connect it with any person whatever. It was simply this: That it was a shrewd act on the part of Mr. Brewster; that it enabled Mr. Brewster to call into the star-route cases which were of doubtful termination a prominent Democrat, and thereby prevent the Democratic party, in case of failure, from being able to make anything out of it by the statement that one of the ablest Democratic lawyers—

Q. (Interposing.) You got that in the newspapers?—A. No; I did not.

Q. It was in the newspapers.—A. It was? Well, it was brought to me by some one passing to and fro from the Department of Justice, when I made the remark that it was a little remarkable that the Attorney-General had employed Mr. Merrick. Whether the motive was in truth such or not, I do not know, but it has had that effect, of course.

By Mr. VAN ALSTYNE:

Q. You have already stated that when your connection with the Department was sundered you turned over to the Department all the papers in your possession?—A. Yes, sir.

Q. And that they contained valuable information?—A. They were mere copies. No; they did not contain valuable information. The papers which they had, and which they earnestly persisted in having me turn over the copies of, were papers that had no real value in themselves. Mr. Bliss stated in a letter, after repeated efforts to get what I had, after

I had given the Attorney-General every fragment that I possessed, that "The possession of these papers, however, by others can do no harm to the Government" so that the papers which they insisted upon my turning over were of no real value, being mere copies and partial copies.

Q. Is there anything further that you care to say touching the general conduct of the star-route cases and the reasons of the failure to secure a conviction before the jury?—A. I can very briefly state, in addition to what I have stated in relation to the indictments, that the mode in which the cases were conducted, the extended length of time, the confusion in the minds of the jurors, and the want of plainness and simplicity, was perhaps one of the difficulties. There was perhaps in addition to that, as they were not engaged in the original investigation, necessarily, only a derived knowledge on the part of the attorneys who tried the cases, and the trial, before it was completed, unquestionably assumed the nature of a contest and rivalry between the attorneys for success.

Q. What attorneys?—A. The attorneys for the defense and the attorneys for the Government. There was this, too: The parties who were indicted had been, previous to their indictment, men of good standing and reputation, and the mode of argument was extremely bitter and vituperative and denunciatory, which had an injurious effect, I think, upon the jury, as it will always have when a man of previous good character is indicted. I heard repeatedly persons leaving the courtroom after the arguments and making this remark, that it was unfair and unjust to denounce so bitterly instead of presenting the facts calmly and coolly. These considerations, perhaps, operated upon the minds of some of the jurors.

Q. If that exhausts your knowledge of those cases, we will regard your examination as concluded.—A. I think that concludes all I have to say. If there is anything else that occurs to me, or if the committee desire to ask any further questions, I shall be glad to answer.

By Mr. FYAN:

Q. I do not remember whether it was you or Mr. Gibson who testified here that it was understood between you and the other counsel for the prosecution, that Colonel Corkhill, as district attorney for this District, was not to be trusted by the Government, and that nothing that was done by the prosecution in those cases was to be confided to him?—A. That is correct.

Q. Did you so testify?—A. I am not certain whether I did or not.

Q. Do you so testify?—Q. I do. That was the understanding, unquestionably.

Q. Who were the attorneys for the prosecution at that time?—A. Mr. MacVeagh, the Attorney-General, Mr. Gibson, and myself.

Q. Did Mr. Brewster and Mr. Bliss, when they came in, concur with you in that view?—A. They accepted primarily and for a while as correct the statements that were made, by Mr. MacVeagh and Mr. Gibson chiefly, with regard to Colonel Corkhill, but after a while that conception or view seems to have passed from their minds, and Mr. Corkhill was consulted more or less in reference to the conduct of the cases.

Q. Who was present at this conference at Elberon?—A. Mr. MacVeagh, the Attorney-General, Mr. Bliss, Mr. Gibson, and myself.

Q. You determined, then, to present certain cases before the grand jury?—A. We then determined to present this case, number 40101, and if that could not be done in time by an indictment, we determined to present it by an information, which we did.

Q. You came on immediately to Washington to present that case to the grand jury?—A. Yes, sir.

Q. The grand jury was then, as you supposed, in session?—A. I supposed it was.

Q. When you got here the jury had been in session two days?—A. Two days, I think.

Q. And you found to your surprise that the grand jury had been discharged by Colonel Corkhill?—A. Yes, sir.

Q. Up to that time had you thought of presenting these cases by information?—A. No, sir—let me be more careful and correct. There was considerable difficulty in preparing the cases. It was questionable whether they could be ready in time to meet the suppositional question that was reached in our consultation with regard to the statute of limitations, but the conclusion was that I should try to secure an immediate indictment, and that in the event I did not, an information should be prepared. I came on, having drafted the outline of an indictment, which I had submitted to the Attorney-General previously, with the intention of going immediately before the grand jury, as I would have done but for its adjournment.

Q. You say that Mr. Corkhill was subsequently taken into the confidence of the other counsel for the Government?—A. Yes, sir.

Q. Up to that time had he been taken into their confidence?—A. He had not.

Q. You were surprised that he had discharged the grand jury?—A. Greatly surprised.

Q. Did you have any conversation with him as to the reasons for his action in discharging the jury?—A. Only incidentally, on Pennsylvania avenue. On that occasion he said that while I might not have known it he had had a conversation with Attorney-General MacVeagh, and in that conversation had stated to him that the grand jury might be adjourned.

Q. The result of adjourning that grand jury was to bar prosecutions against certain individuals. In other words, it permitted the statute of limitations to intervene.—A. It allowed that question to be raised.

Q. What was the effect of it?—A. The effect of it was to prevent us from filing the indictment so as to avoid that question; but it was afterwards our intention to present the same case in the form of an indictment, and then we would have been compelled to encounter that question.

Q. That question never has been settled?—A. No, sir.

By Mr. VAN ALSTYNE :

Q. Did Mr. Corkhill know before that grand jury was discharged that you had it in view to present those cases for its consideration?—A. He certainly knew that.

By Mr. FVAN :

Q. In whose cases would the statute of limitations run? Can you name the individuals?—A. Yes, sir. The cases included Mr. Brady, Mr. MacDonald, a contractor, Mr. S. P. Brown, Mr. French, acting as Second Assistant Postmaster-General, and, according to my original scheme, it would have included also Mr. Walsh, but he was dropped out because it was decided to accept him as a witness.

Q. When was it that this grand jury was in session for two days?—A. That was in September, 1881.

Q. When did the statute of limitations run?—A. It was supposed, incorrectly however, that it would run about the latter part of September. I do not remember the exact date.

Q. How long after the grand jury were in session?—A. About a week, I think.

Q. When did you file your information—before or after the statute would run?—A. Before.

Q. Within that week?—A. Yes, sir. The information was filed September 30. On refreshing my memory by reference to these papers I think the statute of limitations began to run during the first few days of October, about the 3d of October.

Q. And the information was filed in the interim?—A. Yes, sir; prior to the running of the statute on any view that could be taken of it.

Q. But that information was not sustained by the court?—A. It was argued and dismissed in November.

Q. Then the statute of limitations ran before you could get your second indictment?—A. Yes, sir; but please observe, that was a question which arose in our consultations, and we wished to avoid it if possible. It was not determined in our consultation that the statute could be successfully pleaded. That question never has been determined yet.

Q. Were there any offers made to you by any of the defendants to employ you, and if so, by whom?—A. I think about the 10th of May I had my first consultation with Mr. MacVeagh. My appointment was dated June 1st, 1881. During that time I was approached by parties who urged me not to accept employment on the part of the Government. It had gone out in some way that it was the intention of the Government to employ me, and offers were made to me of employment by other parties.

Q. By whom?—A. Colonel William P. Wood, representing, as I understood indirectly from him, nearly all the parties involved, stated that he had authority to offer me, in case I declined the appointment of the Government, a retainer of \$20,000.

Q. Who is William P. Wood?—A. William P. Wood is a citizen of the District, who was formerly a detective or agent of the Treasury Department.

Q. Does he have an office here in Washington?—A. He has an office in the same building where I have mine, 402, 6th street northwest.

Q. When was this offer made to you through Mr. Wood?—A. Probably about the middle of May.

Q. Did he tell you whom he represented?—A. He did not; and I did not inquire.

Q. Did you know whom you were to defend?—A. I did not. The general statement made to me by Mr. Wood was that he was authorized by men who expected to be indicted in the star-route cases.

Q. Do you *know* that he represented anybody?—A. I do not know it beyond his own statement. I called upon him on yesterday, and stated to him that I had testified here. He said that it was correct, and that he had had that authority.

Q. Then there was no arrangement between you and Mr. Wood to seek to get employment from the defendants for your own common benefit?—A. No, sir,

Q. Did you and he work together?—A. No, sir.

Q. Why was it you did not take the money that was offered you?—A. I had an offer of employment by the United States and an offer of

employment by the defendants. Upon full consideration I concluded that it was wiser and better and my duty to accept employment from the United States. I ought, perhaps, in that connection to go a step further. There had been many cases against the United States Treasury Department, involving frauds and misappropriation of money, and a case against Jerome J. Hinds on the part of the Post-Office Department, when Mr. Jewell was Postmaster-General, in all of which cases I appeared for the defendants. None of them were convicted. They were all acquitted. I never had any one convicted in that class of cases whom I defended as against any of the Departments.

Q. What is the object of that statement which you are now making?—

A. I understood you to inquire why I accepted employment from the Government in the star-route cases——

Q. The question I asked you was why you did not take the \$20,000 that was offered to you by this man Wood?—A. I am connecting what I am saying with that question.

By Mr. STEWART:

Q. Because you had acquitted everybody that you had defended—was that any reason for declining this fee?—A. Yes, sir; I felt just this, that having acquitted so many, or been connected with the acquittal of so many, if there had been gross frauds and wrongs committed on the Government in these star-route cases as was alleged, with the experience that I had it would be proper for me, having been solicited by the United States, to respond favorably to its request and to accept employment in the prosecution of those cases.

Q. Then it was not a question of remuneration with you, but a question of patriotism?—A. It was in part a question of duty. I was approached by two parties——

By Mr. FYAN:

Q. (Interposing.) This man Wood offered you \$20,000?—A. Yes, sir.

Q. You put in your bill to the Government for only \$7,500?—A. That amount embraces actual expenditures made by me.

Q. How much did you charge the Government for your services?—A. I never was allowed to make any charge.

Q. Did you make any charge?—A. No, sir.

Q. Did you ever notify the Attorney-General of the amount that you claimed?—A. I made out a bill against the Government after consultation with Mr. MacVeagh and intimations from him of the amount that I would probably obtain.

Q. What amount was that?—A. I received \$5,000 for my services in connection with the Government from June to January. That bill was approved by Mr. MacVeagh. I then put in a bill for \$2,500, including January and February, and down to the 17th day of March. Mr. Brewster cut that charge down to \$1,000, which I have not yet received. I received the \$5,000. The bill for the additional \$1,000 was approved by Mr. Brewster and by the Treasury Department, and was presented to the last Congress, but no appropriation was made.

Q. Then your answer is that you never did claim anything more than \$7,500, including expenses?—A. I never did; but it was because I had an intimation that I would not get anything beyond that. I would have claimed more.

Q. You refused to take \$20,000 from the defendants, yet you put in a claim against the Government for your services and expenses on its side of only \$7,500, and that has been cut down to \$6,000?—A. Yes, sir; but I would have made a larger bill had I been free to do so.

Q. How much larger would you have made it?—A. As I was devoting all my time to the Government service and had a practice that would bring me in probably \$20,000 annually, what I had fixed in my mind, if I devoted a year to the cases almost exclusively, was that I would put in a bill of from \$15,000 to \$20,000, regarding that as a fair and just compensation. I think so still. I lost money by the transaction.

By Mr. STEWART :

Q. Did you not know when you took the employment that the rate of your compensation would be subject to the decision of the Attorney-General?—A. Yes, sir.

Q. And you took the employment with that understanding?—A. Yes, sir; I took it with that understanding, but I did not suppose for a moment that it would be cut down to the mere nominal sum to which it was cut down. If I had, I would not have accepted the employment.

Q. Do you call \$7,500 a nominal sum as compensation for the services which you rendered?—A. \$6,000. Yes, sir; I do call that a nominal compensation, in view of the practice that I had and the business that I was necessarily compelled to turn away from.

Q. If that was a nominal sum, what do you say as to what Mr. Bliss got for the time he spent in these cases?—A. I call that an extraordinary and unjustifiable charge.

Q. But you regard \$7,500 as a merely nominal charge for *your* services?—A. Mine was at the rate of about \$20 a day, while his was at the average rate of \$150 a day. Having relation to the amount allowed him, I regarded the compensation allowed me as merely nominal.

By Mr. FYAN :

Q. Did you help the defendants in either of those cases to get up the juries?—A. No, sir.

Q. Did you have any talk with any of the defendants or with any of their representatives about the juries?—A. None whatever.

Q. You have said that Mr. Cole, your partner, was employed to represent the defendants?—A. Some of them.

Q. Do you know by whom he was employed?—A. By Mr. Rerdell, as I am informed.

Q. Employed to do what?—A. To defend Rerdell.

Q. Who employed him?—A. Mr. Rerdell or Mr. Dorsey.

Q. You say he was employed to do work for Rerdell; now, I want to know whether you understood that Mr. Rerdell employed him or that Mr. Dorsey did for Rerdell?—A. Mr. Rerdell was in the office and was in consultation with him.

Mr. STEWART. That does not answer the question.

The WITNESS. Allow me time to answer.

Mr. STEWART. Please answer the questions that are asked.

The WITNESS. I try to answer them, but it is impossible for me to answer a question all at once.

Mr. STEWART. You answer and argue at the same time.

The WITNESS. Well, I am not aware of the fact.

Mr. STEWART. It is a very simple question that was asked you, whether you understood that Mr. Rerdell or Mr. Dorsey employed your partner.

The WITNESS. Well, if I am required to answer the question without reference to any associated facts or surrounding circumstances, I will say that I do not know.

Mr. STEWART. If you don't know, of course you can so answer.

The WITNESS. If I am allowed to present the circumstances connected with the employment, so far as I am acquainted with them, my answer may be different.

By Mr. FYAN:

Q. Do you know how much your partner got for that service?—A. I do.

Q. How much?—A. Two thousand five hundred dollars.

Q. Did you get any share of it in your partnership settlement?—A. We never had any partnership excepting with regard to civil cases.

Q. I understood you to say that before. Now, please answer my question: Did you get any share of that \$2,500?—A. I got no part of it in our settlement, as our books will show.

Q. Did you tell the President that the defendants, or any of them, had attempted to corrupt you?—A. I did not.

Mr. VAN ALSTYNE. President Garfield?

Mr. FYAN. Either of them.

The WITNESS. I never have had any conversation with President Arthur in relation to the cases in any form whatever.

Q. Then you never told the President that?—A. I never had a word with President Garfield on that subject at all, and I have had no conversation with regard to the star-route cases with President Arthur, nor on any other subject except incidentally one day.

Q. Did you ever go to Dorsey's house after your employment by the Government?—A. No, sir. Mr. Dorsey sent for me prior to my employment by the Government, or about that time.

Q. Can you fix the date?—A. I cannot; it was toward the latter part of May, 1881, I think.

Q. You had been talked to and sought to be employed about the 1st of May, if I understood you correctly?—A. No, sir; not until after the 10th of May.

Q. You did not actually receive your commission until about the 1st of June; am I correct?—A. Yes, that is it; but my—

Q. (Interposing.) Now, when Mr. Dorsey sent for you, was that after you had been talked with about being employed for the Government, but before you received your commission?—A. I cannot remember distinctly. It may have been after the Attorney-General sent for me.

Q. What is your best recollection?—A. I think probably it was a few days afterwards.

Q. He sent for you?—A. He sent for me.

Q. Whom did he send?—A. A carriage was sent to my house with the statement that Senator Dorsey wished to see me.

Q. Who delivered that message?—A. It was sent up by the driver.

Q. Verbal or written?—A. A note was sent.

Q. Have you that note?—A. I have not.

Q. What became of it?—A. I don't know.

Q. Can you give the substance?—A. It was in substance this: If convenient I will be pleased to have you call at my house to-night.

Q. And you think that was the latter part of May?—A. No, sir; I do not think it was the latter part of May. It was, perhaps the middle of May, but the exact date I cannot tell.

Q. I thought you said a while ago that it was the latter part of May?—A. No; do not misunderstand me.

Q. When I first called your attention to the matter I understood you to say that it was between the latter part of May——; then you stopped, and then I asked you as to the latter date. If I am incorrect in

that I have misunderstood you ; but at all events, it was after you had been spoken to on behalf of the Government.—A. I think I followed that by stating afterwards that I thought it was after the 10th of May.

Q. What response did you make to that invitation ?—A. I went down immediately to Mr. Dorsey's house and saw him.

Q. What did he desire to do ?—A. He desired to employ me.

Q. In what case ?—A. In the case that he anticipated would be originated against him in connection with the carrying of mails on the star routes.

Q. And you declined being employed ?—A. I declined being employed and told him it would be necessary for me to reject the offer at that time—that thereafter I would be able to tell him what I could do. He offered me, at the time, a roll of money, which I told him I could not accept, and which I did not count.

Q. Did he tell you how much there was ?—A. He did not.

Q. But you took the matter under advisement as to whether you would act as counsel for him or not ?—A. I did.

Q. You did not consider yourself in the employ of the Government at that time ; you had not then made up your mind that, as you had theretofore acquitted so many men, you would now try to convict some one ?—A. I had not.

Q. You came to that conclusion afterwards ?—A. I came to that conclusion afterwards.

Q. What reasons did you give Dorsey, those that you are giving us now ?—A. I did not give him those reasons ; I did not say anything further to him than that I could not at that time consent to accept employment from him ; that was about all I said.

Q. Didn't you say that you would consider the matter and let him know afterwards ?—A. Yes, sir.

Q. Did you consider it ?—A. I did.

Q. Did you let him know ?—A. I did.

Q. How long afterwards ?—A. A few days afterwards.

Q. Can you remember any more definitely about it ?—A. I cannot be any more definite.

Q. In the interim between the first time you saw Mr. Dorsey and the last time, when you let him know that you could not take a fee from him, had you consulted with the officers of the Government ?—A. I may have done so, because I saw Mr. MacVeagh two or three times ; but I cannot say positively.

Q. Can you tell us what the reasons were that induced you not to accept that employment when you had the matter under advisement ?—A. The simple reason was that I had not arrived at a conclusion for myself as to what I should do, or which of the two offers I would accept, and until I did so I was not prepared to announce to Mr. Dorsey or to the Government which proposition I would accept.

Q. But you did come to a conclusion on that point a few days afterward ?—A. I did.

Q. And you do not know what were the reasons that operated upon your mind within those few days ; you do not know whether you saw the officers of the Government within those days or not ?—A. I know that I saw them, and I know the reasons that operated on my mind.

Q. I have read some testimony which you are reported to have given before the Committee on Post-Offices and Post-Roads ; and I want to ask you about it. Did you testify yesterday to this effect : "I never saw any papers or heard any testimony from Mr. Woodward, or anybody else, officially or unofficially, directly or indirectly, implicating Mr. Ellis in the star-route frauds, or reflecting against him."—A. I did so testify.

Q. Do you repeat that testimony to-day?—A. I repeat that testimony to-day.

Q. Did you advise the suspension of pay on route 37110 from Rock Creek, Wyoming, to Etchitas, Montana?—A. I believe I did.

Q. When did you give that advice?—A. I cannot give the dates.

Q. Approximately?—A. I am not able to do that, but I have copies of the letters to the Postmaster-General, advising suspension, which I can furnish the committee.

Q. You cannot either fix the date or approximate it?—A. I cannot fix the date from memory, but I have a copy of the letter.

Q. Do you remember the reason you gave that advice?—A. It was because I had understood that there was an attempt to secure the payment, and I had information that it was fraudulent and unjust.

By Mr. VAN ALSTYNE:

Q. Who was the contractor on that route?—A. I do not remember. The reason I do not remember is that that was a matter brought only incidentally to my attention with a statement that unless prompt action was taken payment would be unjustly and improperly made.

By Mr. FYAN:

Q. And you advised the suspension of the pay?—A. I did. More, I addressed a letter to Attorney-General Brewster in relation to the subject, suggesting an investigation, I think, and it was ordered under the direction of Mr. Bliss himself.

Q. Did you afterwards advise the removal of the suspension?—A. I did not. The matter passed into the hands of Mr. Bliss.

Q. This advice that you gave was oral, I believe, not written?—A. Oh, no; it was in writing. I addressed a letter to the Postmaster-General, and subsequently a letter to the Attorney-General, and received a response. I can furnish copies of both letters.

Q. During the time that you and Mr. Gibson were associated in these cases did you always have full confidence in the integrity of Mr. Gibson?—A. From the commencement to the end, I never had any reason to doubt the integrity or sincerity of Mr. Gibson.

Q. You never expressed to any one any distrust of his integrity?—A. I have no recollection of having done so.

Q. If you never entertained any such feeling you certainly never would have given expression to it?—A. I would not.

Q. Then you ought to be positive on that subject?—A. That would be a mere inference.

Mr. VAN ALSTYNE. Call his attention to the person to whom you refer.

Mr. FYAN. I just wanted to know, as a matter of fact, whether he had said so.

The WITNESS. I never doubted Mr. Gibson's integrity in the star-route cases. I may have done this. There were a great many things published, a great many denunciatory articles in relation to Mr. Gibson, and statements made in regard to him. Now, I may, in conversation with some one have referred to those statements, but so far as any opinion of my own was concerned, I never doubted the integrity of Mr. Gibson, and do not now.

Q. I understand you to say that you never doubted it and never gave any expression of any doubt of it to any person?—A. No, sir. But if you will let me go further, I well remember having said that he had labored with me most earnestly and diligently, by night and day, and any suggestion that I would make to him of supposed value in arriving at facts, he pursued carefully and cautiously.

Mr. STEWART. Do you know how that \$2,500 was paid for the services rendered Rerdell by your partner?—A. I do not know, personally, but while I so answer, I do know by information.

Q. From whom? From your partner?—A. From my partner.

Q. Was it paid all at once?—A. May I state what I learned about it?

Q. Yes; I have no objection to your stating what your partner said about it.—A. Very well; it was paid by a draft on Mr. Bosler, of Carlisle, Pa., and was collected, as my partner informed me, through some person in New York.

Q. To whom was that draft payable?—A. It was payable to Mr. C. C. Cole, my partner, a native of Maine.

Q. Into whose account did the cash go?—A. I do not know. It must have gone into his own account. It did not go into our partnership account.

Q. You have stated that in your settlement with your partner, no part of that \$2,500 went to you?—A. No part of it went to me.

Q. Now, I will ask you a little broader question: Did you ever receive, in any manner, at any time, directly or indirectly, any benefit from that \$2,500 yourself?—A. I am not aware of any benefit that I ever received from it.

Q. Would you not be likely to know it if you had received any such benefit?—A. My partner and I have settled our accounts——

Q. (Interposing.) You have said that already.—A. (Continuing.) Well, one step further. In those settlements my partner (for he keeps the accounts exclusively) has paid me money. Where he got the money—from what source he got it—I do not know.

Q. That is not exactly in answer to my question. You know just what I mean when I ask you whether you know or have any reason to believe that you did receive, directly or indirectly, either at the time of your settlement or at any other time, the benefit of any portion of that \$2,500 that was paid to your partner on account of Mr. Rerdell?—A. I have no knowledge of having ever received any portion of the fund that he procured upon the draft that was drawn in his favor.

By Mr. VAN ALSTYNE:

Q. Did he ever give you any of it?—A. How can I tell? He never gave me any money saying it was part of the proceeds of that draft.

Q. Did he make a present to you about the time he received it?—A. No, sir.

Q. Or to any member of your family?—A. No, sir.

Q. Either of money or anything else?—A. No, sir.

By Mr. FVAN:

Q. At the time you were prosecuting these cases on the part of the Government your partner was defending the same cases?—A. No, sir; it was a considerable time after I resigned, and Mr. Rerdell, at the time I resigned, was not embraced in my investigations.

By Mr. STEWART:

Q. Was this \$2,500 which was paid to your partner on account of that service to Rerdell ever a subject of conversation between you and your partner?—A. Nothing beyond the fact that he had received the money.

Q. Was it ever a subject of conversation between you in any form as to any division of the money between you?—A. No; under the terms of our partnership I had no right to any part of it.

Q. I understood that before.—A. Well, there may be no objection to repeating it, especially in view of the character of the question.

Q. Then, so far as you know, you have not received any money from that payment of \$2,500?—A. I have repeatedly answered that question. If am required to answer it further I will do so during the entire day, but the answer will be the same all the time.

Q. That you are not aware that you have had any of that money?—A. I will answer it again, with a negative, emphasized as intensely as I can pronounce it.

Mr. STEWART. There is no intensity that can be given to a plain, square, negative, and if you had said so in the first place, I should not have pursued it.

The WITNESS. I think the record will show that I did so.

Mr. STEWART. You first said that you had not received anything out of it at the time of the settlement with your partner, which is a somewhat different statement.

The WITNESS. Well, the record is there, and I am satisfied with it, as far as I am concerned.

By Mr. FYAN:

Q. Did your partner ever advise with you in this case, after he was employed by Rerdell? Did you give him the benefit of any information you had acquired?—A. I gave him the benefit of no information. He may have asked me occasionally a general question. He did in one or two instances as to authorities or references to forms by which papers should be drawn up.

By Mr. VAN ALSTYNE:

Q. Did you have knowledge of facts bearing upon Rerdell obtained whilst you were in the employ of the Government?—A. No, sir.

By Mr. STEWART:

Q. I understood you to say that you were cognizant of the fact that the employment was about being made of your partner as counsel for Rerdell. Did you say anything to him on the subject of the impropriety of it, in view of your having been counsel for the Government?—A. No, sir.

Q. Did it occur to you that there was an impropriety in it?—A. I said distinctly to them that I could not accept any employment from Rerdell or any of the other star route defendants connected with any of the cases that I had directly or indirectly examined or been associated with.

Q. Did it occur to your mind, you having been employed before that as counsel for the Government, that the employment of your partner in civil business by any of the parties accused in cases within the general scope of this star route investigation would subject you to invidious criticism?—A. The idea did not arise in my mind at any time. By our arrangement, Mr. Cole had a right to accept any employment that he saw fit in criminal cases; so had I.

Q. Is it an unusual fact in the experience of lawyers of extensive practice for them to be applied to by both parties to a case?—A. I think not.

Q. Has it occurred frequently in your history and experience?—A. I may not be able to recall instances, but it has occurred, and men have gone away saying that they regretted that they could not obtain my services.

Mr. FYAN. As a question of professional ethics, if a man had been

employed as an attorney on one side of a case, and his relations in that capacity ceased, do you think it would be professional, according to the rules governing in this locality, for him to take employment and pay from the other side?—A. I have understood that in this locality it was so considered.

Q. Considered professional?—A. Yes, sir; if there had been an entire severance, and if the case for which the subsequent employment was desired did not involve the *facts* connected with the previous employment.

Q. You think it would be professional for a man who is employed as an attorney on one side of a case to go over to the other side, after that employment ceased, carrying with him the information that he had obtained?—A. No, sir; if the case involv'd the facts of the previous employment, it would not be professional. But if it was merely a case of the same general character or class without involving the same facts and not affecting the previous case.

Q. And not having any actual connection with the same parties?—A. Not having actual connection with the same parties.

Q. That is, if I am employed to prosecute a particular case of murder, I am not thereby debarred from defending another man charged with murder?—A. No, sir; although he may be charged with this same offense.

Q. Growing out of the same subject matter?—A. Growing out of the same subject matter.

Q. Suppose six or eight men engage in a conspiracy, and three or four of them are indicted, and you are employed to prosecute those three or four, and, having received your retainer and discharged that duty, suppose that the other two were indicted also for the same offense, would you think it professional for you to take a fee to defend those other two?—A. I would not.

By Mr. MILLIKEN:

Q. Is not that this very case?—A. Perhaps not exactly. Mr. Rerdell was not embraced in the scope of my investigations, for the purpose of including him in an indictment. He became an informer as against the parties through the Attorney-General.

Q. Did not Mr. Dorsey employ your partner to defend Rerdell?—A. The check or draft given was signed by Mr. Dorsey; at least that was my information, but beyond that I have no knowledge.

Q. Were you not prosecuting Dorsey?—A. I had been, but at that time my connection with the case had entirely ceased. All that is a question of ethics, about which the attorney and the books differ, as all lawyers know.

Mr. FYAN. We want to get a little higher standard if we can.—A. Well, I would not accept employment under such circumstances, unless they were very peculiar.

Adjourned.

WASHINGTON, D. C., *March 18, 1884.*

JACOB M. MCGREW appeared at his own request and was sworn and examined.

By the CHAIRMAN :

Question. Please state your age, residence, and occupation.—Answer. I am fifty-four years of age; I am an attorney at law; I reside in Washington.

Q. State whether you were at any time in the public service, and, if so, in what capacity.—A. I was chief clerk of the Sixth Auditor's Office for about eleven years, and Sixth Auditor for six years.

Q. During what periods?—A. I was appointed chief clerk November 16, 1864, and promoted to the auditorship July 1, 1875.

Q. In what Department of the Government is the office of the Sixth Auditor?—A. The Sixth Auditor's Office is a Bureau of the Treasury Department, located in the post-office building for convenience only.

Q. What are the duties of the Sixth Auditor?—A. To settle all the accounts pertaining to the Post-Office Department.

Q. Had you anything to do, as Sixth Auditor, with the letting of contracts for mail-services, or for the expedition of such service?—A. Nothing whatever to do with the making of contracts, or with the increase, expedition, discontinuance, curtailment, or anything of that sort.

Q. Upon whose order did you audit the expenses of the Post-Office Department?—A. On the order of the Postmaster-General, certified to us by the journal clerk of the Postmaster-General, on weekly orders.

Q. Is the order of the Postmaster-General conclusive upon the Sixth Auditor?—A. Entirely so. If you will permit me, I will read, as a part of my answer, a few lines from the decision of Judge Wylie in the first star-route trial, which will be found on page 2192 of the record of that trial. I was called as a witness to contradict a supposed statement made by a man of the name of Rerdell, and objection was made to my testimony, and the court said :

The Auditor's office is altogether distinct from the Second Assistant Postmaster-General's office. The Auditor's office is an auditor's office. It has nothing to do with the business of increasing service or expediting routes. The Auditor's office, having nothing to do with that, was obliged to take the orders of the Second Assistant, or the Postmaster-General through the Second Assistant Postmaster-General, as its law. All that the Auditor's office had to do was to audit the accounts according to the orders for expedition and increase which had been made by the other Department. It was not possible, therefore, for any assistance to be rendered by the Auditor himself, or by clerks in his office, to the parties who were concerned in expediting and increasing the service.

I would like to add, also, an extract from a decision of the United States Supreme Court, which has been made a part of a circular sent out by the Secretary of the Treasury to his accounting officers as their rule and guide :

The Secretary of the Navy represents the President, and exercises his power on the subjects confided to his Department. He is responsible to the people and the law for any abuse of the powers intrusted to him. His acts and decisions on subjects submitted to his jurisdiction and control by the Constitution and laws do not require the approval of any officer of any other Department to make them valid and conclusive. The accounting officers of the Treasury have not the burden or responsibility cast upon them of revising the judgments, correcting the supposed mistakes, or annulling the orders of the heads of Departments.

That is made a part of the instructions sent out by the Secretary of the Treasury to the accounting officers of his Department.

Q. Have you seen a publication which recently appeared in the New

York Sun in which your name was mentioned in connection with star-route matters?—A. Yes, sir.

Q. That publication stated that you had received a certain sum of money from one Lilley, to be divided with some person in the postal service, for the purpose of securing the expedition of service upon some route. State what you know about that?—A. The statement, I believe, was that a gentleman of the name of Brott had stated to Mr. Woodward that Mr. Lilley had stated to him that he had paid money to me in the auditor's office to secure the expedition of service upon some route. I do not remember what route it was or where it was. I want to say that it is infamously false, so far as I am concerned. I never received any money from Mr. Lilley, or any one else, for expedition of service, or for increase of service, or for any other services rendered to mail contractors.

Q. Had you ever any dealings with Mr. Lilley with regard to postal matters?—A. No, sir; I think he never visited my office more than twice while I was Auditor, and that was at the close of my term.

Q. When did you first see that statement which appeared recently in the New York Sun?—A. I did not see the statement which appeared in the Sun. What I saw was a very brief statement, but of course it contained the gist of the matter, and that was that a payment of money had been made to me. My attention was called to it a little over two years ago.

Q. State the circumstances under which your attention was called to it.—A. I was calling on a friend of mine and he handed me a piece of paper containing a very rough memorandum. I attempted to find the paper this morning, but I appear to have mislaid it, or it was perhaps kept by Mr. Lilley—a memorandum stating that, "It has been reported that Brott has said to Mr. Woodward that Mr. Lilley had informed him that he had paid McGrew \$4,000 for expediting service." I think the paper gave the number of the route, but I am not certain about that. I think it gave also the name of the party. It was a very brief memorandum. I think there was nothing said in it as to my dividing the money with anybody, at least I did not notice anything of that sort, and I do not think there was any such statement in the paper.

Q. Who showed you that statement?—A. General Brady.

Q. Where?—A. At his house.

Q. At what time?—A. Some time in the evening.

Q. What year and month?—A. I should think it was in January, 1882. I fixed the date by the fact that I went at once with the memorandum to Mr. Lilley; I did not tarry a moment.

Q. Did you read it to him?—A. I did.

Q. Is Mr. Lilley now living?—A. He is not. [Referring to a memorandum.] I can now fix the date with certainty; it was March 20, 1882. I went the same evening to see Mr. Lilley.

Q. What was said on that occasion between you and Lilley?—A. I showed Mr. Lilley the memorandum and asked him what it meant, and he denounced the statement as false that he had ever made any such statement as that, and he sat down and wrote me this letter. He addressed it to me, but in the letter he speaks of me in the third person.

Q. Please read the letter.—A. (Reading:)

LAW OFFICE OF W. LILLEY, *March 20, 1882.*

Your communication, with inclosure of even date herewith, is now under reply. I was surprised when I read it, and I was more than surprised when I read the paper which accompanied it. [He means, I suppose, that I wrote him a note, and the accompanying paper to which he refers was this memorandum.] I have often wondered

why McGrew was displaced, but I never supposed that I had any connection with it. I never exchanged a word with J. B. Price on any subject, nor did I ever have any business relations with him. I have known George F. Brott for some years, and I acted as his attorney on many occasions; I am his attorney now in some matters. I have always believed him to be a man of truth, though some matters have recently transpired which lessen my faith in him. If he made the statement the paper you inclosed attributes to him—I have doubts if he ever made the statement—but if he made it he was guilty of inflicting a grave wrong, both on Mr. McGrew and on me. There is not a word of truth in the statement, so far as it refers to me. It is simply false in every particular. When I say this, I desire to be understood as giving this answer to every form of question that might be put to me. I desire to be understood as saying that I never paid any money to Mr. McGrew to do either an official or unofficial act. I never had any money relations with him of any sort. I do not use harsh or vehement language, though I feel like doing so. I say it is simply not true, and if I can add any force to this form of denial by pursuing any form that you may suggest, I am ready to do it.

I am, truly,

W. LILLEY.

P. S.—Your communication is herewith returned.

I think the communication was not returned, at least I have not been able to find the memorandum, and I think he did not return it to me.

Q. Will you please tell the committee how it happened that you resigned your position of Sixth Auditor about that time?—A. Yes, sir. On the 2d day of January, 1881, Mr. Windom, the Secretary of the Treasury, sent for me, and taking me into his private room, said that he was about to perform a duty the most disagreeable that he had ever performed in his life, which was to ask for my resignation as Sixth Auditor. I inquired the reason for which I was asked to resign. He said that two members of the Cabinet, whom he need not name, because I would know who they were, had stated to him and to the President that they could not proceed any further with the investigation of alleged star route irregularities unless I was out of the Auditor's office. I told him that upon that statement I would not resign; that the charge against me was not true; that I had written a letter to him, the Secretary of the Treasury, and also to the Postmaster-General, in which I had invited an investigation of the operations of my office, so far as they related to star-route expenditures, and had asked as a favor that inspectors of the Department might be directed to investigate thoroughly all the operations of the Auditor's office in connection with such payments, and that therefore the reason assigned was not a satisfactory one, and I would not resign. He then said that that was about the answer he had expected to receive; but that now he would place the matter before me in a different form, and that he thought I would then resign. He said that the President was very much embarrassed by the statements made by these two Cabinet ministers; that neither he nor the President had any doubt as to my honesty, integrity, or ability as an officer, but inasmuch as the President was very much embarrassed by the importunities of these gentlemen, he would regard it as a very great favor if I would place in his hands my resignation, with the understanding that as soon as the investigation had been concluded and I had been found not to be implicated in any of the irregularities, he would give me a position better than the one I had been holding. Mr. Windom requested me to see the President, and I did see him, and he made precisely the same statement to me.

Q. President Garfield?—A. President Garfield. Upon that statement and promise, I resigned.

Q. When did you see President Garfield?—A. On the same day that I saw the Secretary. I saw the President afterwards, of course, but that is the occasion that you are asking about.

Q. What did the President say as to the demand for your resignation?—A. He said the same that Mr. Windom had said, that these two members of the Cabinet had stated that they could not proceed with the investigation of these alleged star-route abuses unless I was out of the office.

Q. Did the President name those two members in the Cabinet?—A. The President did. Of course I knew who they were—Mr. James and Mr. MacVeagh, the Postmaster-General and the Attorney-General.

Q. When did you see the President again?—A. Those interviews were on the 2d day of June, the day that I resigned; I put my resignation in the hands of the President, and on his statement and promise, on Thursday, the 30th of June, the President sent for me and said that he had become convinced that he had done me a very great injustice; and that he intended to redeem the promise he had given to me, and intended to make my restoration conspicuous. His words were, "McGrew, I will make reparation, and I will make it conspicuous." I had some considerable talk with him, and I started to Ohio the next day, having some private business there. I started on Friday, and on Saturday I saw in the dispatches from Washington that the President had been shot.

Q. Did you see him afterwards?—A. I did not; I can say, however, that he made the same statement to several friends of mine, who have told me about it. Governor Foster, Mr. Elkins, Capt. Chas. C. Henry, Col. Henry C. Corbin, and some others whose names I do not now remember; and I think he said it to Mr. Blaine also. Some of those parties have so informed me themselves; Col. R. G. Ingersoll is another person to whom the statement was made.

Q. Have you had any official position tendered to you since that?—A. No, sir. I have made no application for any position, and I do not want any. I have had enough.

Q. Then I understand you to say that the statement as to your receiving any money in this matter is false?—A. Entirely so. The statement as made by—I do not know whom—I do not know where that memorandum came from, or who took the memorandum, but the statement made in it is false in every particular.

Q. Was that memorandum in substance the same as the statement published recently in the New York Sun?—A. It was a very brief statement of perhaps a dozen lines.

Q. Did you see the article in the Sun?—A. I did. That memorandum contained the gist of the whole thing; that is to say, there were no details given in the memorandum.

Q. Were any papers filed in your office that came within your cognizance relating to the expedition of star routes?—A. No; we never had any such papers filed in our office; they did not belong there.

Q. Did you have anything at all to do with the expedition or increase of mail service?—A. Nothing whatever.

Q. Were you ever consulted in regard to that?—A. I was never consulted on any subject of that kind; our official notice of expedition, increase, curtailment, and discontinuance of service came in weekly transportation orders, weekly reports from the Postmaster-General; they would not be received for a week or two, or perhaps for a month or two, after the orders had been made in the Post-Office Department; we knew nothing about orders for expedition, increase, the making of contracts, or the certification of service, until long after it had been done in the Second Assistant's office.

Q. Did any of the star-routers solicit your influence, at any time,

with the Second Assistant Postmaster-General, or with any other officer of the Government, to secure expedition or increase of service?—A. Never in the world.

Q. You know nothing about that?—A. Nothing. I knew nothing about the manner of making application for it. It was a matter that did not pertain to my office, and I had plenty of work of my own to attend to, so that in fact I did not think of that subject, and did not know anything of any alleged irregularities until after April, 1881. I had reported to the Postmaster-General every quarter the expenditures of his Department under the various heads, showing him the expenditures on account of the star service as well as of other mail routes. That was my duty; but beyond that I had no connection with the star-route service.

By Mr. VAN ALSTYNE:

Q. Did you ever make a recommendation in writing for the extension or expedition of any of the routes?—A. No, sir. I did not know anything about the routes. I never talked with a contractor about expedition or increase of service. I never, while I was Auditor, made but one request in relation to the star-route service, and that was to have a little route, eight miles in length, established in my own county in the State of Ohio, and Mr. Brady would not do it.

Q. Your duties were purely of a clerical character?—A. I was purely an accounting officer, as Judge Wylie said.

Q. Your action was based upon the papers sent to you, and in regard to which you had no power or authority to make inquiry or change?—A. That is exactly the case. The law prescribed my duty, and I tried to do my duty under the law.

WASHINGTON, D. C., *March 20, 1884.*

GEORGE BLISS sworn and examined.

By the CHAIRMAN:

Question. Please state your residence and occupation.—Answer. I reside in New York City; I am a lawyer.

Q. State whether you have at any time held any official position under the Government of the United States, and if so, what?—A. I was a captain in the Army during the war. I was from 1873 to 1877, something over four years, district attorney of the United States for the southern district of New York. Those are all the official positions that I have held under the Government.

Q. Were you special counsel for the Government at any time?—A. I was special counsel—technically, I was a special assistant district attorney—in connection with the star-route cases.

Q. When did your service in that capacity begin?—A. I think about the first week in September, 1881.

Q. Have you your commission with you?—A. I have not. I was first applied to to become employed by Postmaster-General James in the last week in August, 1881, and then I rather declined. I was applied to further on, about the 6th of September, 1881, and then accepted the appointment. I would like, in this connection, to read a letter which I

wrote to Mr. James at that time. The letter is dated August 29, 1881, and is as follows :

AUGUST, 29, 1881.

MY DEAR JAMES: Referring to our conversation about my becoming engaged in the star-route cases, and Colonel Cook's dispatches, I want to say two or three things, though I think probable a personal interview with you and others will be necessary.

First. I greatly appreciate the compliment you and the Attorney-General pay me in thinking of me in this connection.

Second. While I should expect to be paid as well as the Government pays any one for law business—which is stating it low—I should not think of going into it for the mere pecuniary results to myself; and therefore,

Third. I want one or two questions answered confidentially, such as these:

Has the desire to employ me anything to do with Arthur's possible accession to the Presidency? For, if it has, I do not feel that, with my relations to him, I ought just now to go into the cases, for it will be considered that I am there with his consent if not procurement; and though I do not doubt he would favor the "going for" every guilty man, still to stir up the star-route "gang" at the outset of his administration—if, unfortunately, he is to have one—would add to his difficulties at the outset, by bringing "down" upon him that powerful "gang" before he has had a chance to conquer, as I know he will conquer, the approval of the people at large. In other words, if the star-routers think they would get any favor from Arthur, I should want them to remain of that opinion till he has won in a manner the confidence of the non-star routers, and I ought not to expose him to attack before he has gathered strength to withstand them.

(2.) Is there any truth in the impression the Times has given out and the Sun encouraged, that the prosecution is in danger of failing? I know the difficulties in the way, and that success cannot be assured when you are fighting before Washington courts and jury so powerful a set of men as are involved in these cases. But I don't feel like going into a failing case, one which its friends have in their hearts come to believe is likely to fail.

(3.) Is anybody who is believed to be guilty to be saved, protected, or passed by?

There is a sort of belief that there is something of this kind.

I am aware of the difficulty of your answering these three questions, especially upon paper; but I want to possess your mind of them that you may know what is on my mind, and be ready to say something in case I come to Washington.

Fourth. What would my relations to the case be; how much would they require me to be in Washington, or away from here; how long and how continuously are they likely to take me?

Now, my dear James, all this may perhaps strike you a little like "looking a gift horse in the mouth," but it shows how I feel.

If, after seeing what is in my mind, you still think the condition of things is such that I can be of use in the cases, and am likely to be willing to go into them, I will try and come over to Washington some afternoon this week, in spite of this hot weather.

Yours, truly,

GEORGE BLISS.

Hon. THOMAS L. JAMES.

Mr. James on receipt of that letter telegraphed me that the answers to my questions would be satisfactory to me, adding that Colonel Cook was coming to New York, and that he desired me to meet him. Colonel Cook also telegraphed me to meet him at the Fifth Avenue Hotel, and I saw him at that hotel on the 4th or 5th of September, after which interview I wrote this letter to Mr. James :

SEPTEMBER 5, 1881.

MY DEAR JAMES: I had a long interview with Colonel Cook. It was satisfactory, on the whole, in all respects, except one, though there were some *idiosyncrasies* of his developed. The one exceptional point to which I refer is this: He represented that it was not certain I could be retained; that he and you and MacVeagh were in my favor; that he thought he could, through Gibson, influence Blaine, and suggested that I should "pull my wires," if I could. Now, I have no objection to "pull wires" in politics for a friend or myself, but I never have pulled wires for law business, and don't mean to begin now. I didn't quite know what to make of this phase of the matter; but while concluding in my own mind that it is a little device of Colonel Cook's to enhance his importance, and that it is not correct, I still tell you of it frankly. *Don't mention it, of course, to him.*

Assuming this matter to be all right, I am disposed to take hold. If the Attorney-General is at Long Branch, I rather think I will drop down there some afternoon and talk with him on some professional phases of the case.

Yours, truly,

GEORGE BLISS.

Hon. THOS. L. JAMES.

After that I went to Long Branch, about the 8th or 9th of September, where I saw Mr. James and Mr. MacVeagh both, and had a long interview with them jointly, and subsequently a separate interview with Mr. MacVeagh, and then accepted my appointment.

Q. Who were present at the interview at Long Branch, to which you refer?—A. No one, except Mr. James and Mr. MacVeagh. After the thing was all over, some of these omniscient reporters at the hotel found me and were anxious to discover why I was there. I declined to give them any information; but somehow or other they got it, and next morning it was announced in the newspapers that I had been retained. I mention this, because I notice that Mr. Cook speaks of having been down to Long Branch, and says it was after his visit that it was decided to retain me in the cases, and makes various other statements of that kind, in which he is absolutely incorrect, as I know of my own knowledge and from things which Mr. James told me.

Q. Did you have any consultation at Long Branch at which Mr. Cook was present?—A. Yes, sir; subsequently. When I came into the cases at the interview at Long Branch, Mr. MacVeagh informed me that he intended to employ Mr. Brewster also (Mr. Brewster being substantially his representative and I being Mr. James's), and said he would telegraph to find out when Mr. Brewster could meet us. There was an appointment made for us to meet at Long Branch a few days later, at which time it was supposed Mr. Brewster would be able to attend. It turned out, however, that he was engaged in the trial of a case in the interior of Pennsylvania, and could not attend. The result was that we had present at the conference at the Elberon, Mr. Gibson and Mr. Cook and myself; Mr. MacVeagh was in the house, and whenever we got to a point in the discussion where we desired anything from him we sent for him and he joined us; so that Mr. MacVeagh also may be fairly considered as having been present at that conference. That conference took place about the 13th of September. It lasted, I think, two days.

Q. Whom do you say were present at that conference?—A. Colonel Cook and Mr. Gibson; and, as I have said, Mr. MacVeagh was there, and came in and went out from time to time. He was in the house, and whenever we wanted him and requested his attendance he joined us.

Q. You may state briefly the nature of the services which you performed for the Government during the period of your employment as special counsel.—A. That is rather a heavy job.

In the first place, I was being indoctrinated as to what had been already done by the gentlemen who were in the cases before me. They had got together an abstract of the papers and the evidence upon what was known as the Prescott and Santa Fé route. That was the case which they said was most nearly ready to be proceeded with; in fact, it was represented as absolutely ready. The facts in that case were gone over; and then Mr. Gibson had prepared a very elaborate statement (which I have here) with reference to Mr. Dorsey and his connection with these star routes. It is dated "Washington, July 10, 1881," and addressed to Mr. MacVeagh, and is 175 pages long. That statement was read to us by Mr. Gibson, and it led to a discussion from time to time as we went along. At that time the Prescott and Santa Fé case was consid-

ered, and the question of Mr. Walsh's relation to it came up. It was a case where there had been originally other contractors; they had been declared failing contractors, and Mr. Walsh had come in subsequently, and the route had been see-sawed up and down in various ways upon the record, and finally Walsh had been himself declared a failing contractor. All this had been done by Mr. Brady. I think there may have been some one or two of the orders made by Mr. French, the Acting Second Assistant, but it was substantially all done by Mr. Brady as Second Assistant Postmaster-General.

The strength of that case as a criminal case rested absolutely upon the evidence of Walsh. He was represented as being able to testify to payments of money to Brady in connection with procuring the expedition and increase of service, and, with Mr. Walsh's testimony and with the other record evidence as they stated they had it, it seemed a fairly good case. But I told them very distinctly that, with my experience as a prosecuting officer, I could not help regarding Mr. Walsh as a co conspirator in the case—that he might regard himself as a victim, and I presumed he did, but it seemed to me that on the papers he was a co-conspirator, that I could not but believe he was such, and that I was not willing to go on with that case unless Walsh was brought into it. I claimed at first that he should be made one of the parties to be indicted. Subsequently, I think, I modified my view and said that I was willing to go ahead provided he was named as a conspirator, though he might not be indicted. It was left with Mr. Gibson to see Walsh and ascertain whether he was willing to be put in that position. Mr. Gibson seemed to think he would not be willing, and I was very decided in my opinion, in view of some experiences I had had, that, as the case rested entirely upon Walsh's testimony, as I thought, for any possibility of conviction, it would be very unwise to bring the case into the power of a single witness who might at any time slip away. Following that case down a little further we broke up on that, and, so far as it was concerned, it was left in that condition. Subsequently Mr. Walsh came to see me in Washington. I had a long talk with him, and a very agreeable talk. In the course of it we went over together the statement that had been prepared, I think, by Mr. Gibson—at any rate, by Mr. Gibson or Mr. Cook—as to what he, Walsh, could testify to. Portions of it were found to contain matters that he could not testify to; that is, they were not matters of his own knowledge, but matters of inference. That prepared statement was taken and lines were drawn across the portions which Mr. Walsh dissented from, and what he agreed to was otherwise marked, and the paper was indorsed as having been read to him. After that was all over I said to Mr. Walsh that he ought to know that I had been quite decided in saying that I thought he ought to be included in the indictment; that Mr. Gibson was to have seen him on the subject, and that I understood Mr. Gibson had approached him in relation to it. Mr. Walsh said with a good deal of earnestness that Mr. Gibson had never broached the thing to him. I told him that after our conversation I was willing to go ahead with that case, based upon his statement as to what he could testify to—that I thought there could be no probable evasion in connection with that statement. At Long Branch also, after the Prescott and Santa Fé case was taken up, as I have stated, the Dorsey case was gone over. It was represented as substantially in readiness for presentment to the grand jury, though not so entirely ready as the Prescott and Santa Fé route. I see by the testimony given here there has been some statement made that I said that was a weak case, and so on. I said nothing of the kind. I said this: I had been

told that Mr. Dorsey's clerk (whose name I did not then know) had given information to the Government, and that the information he had given was available, and, in connection with the case, I asked something about the information that had been given by Mr. Dorsey's clerk, and they replied that he had gone back on the Government again. I then said that that weakened the case, but I never said that it was a weak case; I never thought it was a weak case. I could hardly take it in with all its bearings, its weakness or its strength, at that time where such an amount of material was pumped into me without any opportunity of seeing the original papers, but I formed the impression that it was a strong case. Subsequently, when I looked into the case, I found that many of the statements made in Mr. Gibson's report were rather inferences than facts which could be proved, and that some of them were at least consistent with a different explanation from what he gave to them; but I found also on going to the original papers, which were very voluminous, a great deal in the case, and I formed the opinion that it was a strong case. I stated that it was a strong case, and I state now, and am prepared to stand by it, that that case was the strongest one that we had available to us for months and months, and that I selected it, so far as I had anything to do with the selection, deliberately as the strongest case. Now, perhaps, I may say why. In these cases the United States criminal statutes are in a measure so defective that the conspiracy section was almost the only one which could be considered as applicable. But, if Mr. Brady increased the service and the speed of the service upon one route and allowed a large sum for it, there was in that fact alone no evidence necessarily of guilt on his part, no evidence of conspiracy with anybody. Nor did you get that evidence of guilt or of conspiracy when, confining yourself to that single route, you sent out inspectors and showed that the increase and expedition were unnecessary and that the contractor's statement as to the number of men and the number of horses on which the allowance for expedition was based was erroneous. The contractor had to state to the Department that so many men and so many horses were now employed on the route, and that so many more would be required under the expedition, but his statements on that subject might be entirely incorrect and yet the increase or the expedition be perfectly consistent with the idea that Mr. Brady or the post-office authorities, whoever they might be, had been imposed upon in the matter, and such erroneous statements would be consistent also with the idea that the contractor himself was mistaken. But even if the contractor was deliberately and corruptly in the business so far as he was concerned, that of course did not show conspiracy with Mr. Brady or with any officer of the Post-Office Department, and the act of the contractor in swearing to an affidavit was not to be brought within any perjury statute apparently, as the affidavit was a thing not recognized in any manner by any law. So that when you take a single route, you have practically no evidence on which you can base a charge of conspiracy or establish guilt. But now if you take another route, and you go on and find that the same officer of the Post-Office Department makes a similar order on that route in favor of the same person, or of a number of persons acting together, as to which all these things occur—if you find ten, fifteen, or twenty-five or more routes as to which you find in the first place that the amount of increase was very large; in the second place, that the number of men and horses by which it was gauged was incorrectly stated, either in the present or in the future, or both, and if you find that the service originally was being performed within the time to

which the Government was paying a large sum of money to have it expedited or increased—then, as you increase the number of routes, which you find to correspond with each other in these particulars, the aggregation, it seems to me, carries with it an increased presumption or inference of guilt which makes a case of that kind very much stronger than any case based on a single route could be, and makes a case which I think you have fairly a right to ask a jury to pass upon and convict the parties. I took that view of these cases very strongly, because (though not of counsel) I had had occasion to know a great deal about the Tweed case in New York. There had been attempts there to convict what was known as the “Tweed ring” on single transactions, but they had almost all failed. Mr. Tweed himself was tried once or twice. Finally the prosecuting counsel took up a case where they alleged that Mr. Tweed on successive days had passed, or permitted to be passed, sixty or seventy fraudulent warrants. Each one of those warrants taken by itself, as was argued at that time, was perfectly consistent with the idea that Mr. Tweed was innocent in passing them; but when you found him on succeeding days going in with these sixty or seventy or eighty fraudulent warrants, the coincidence of all these facts coming together carried conviction to any unprejudiced mind of guilt on his part, and also in that case (though there was other evidence) carried conviction to the jury. My view with reference to the Dorsey cases was precisely of that general nature. I therefore said that that was a strong case. I say now that it was a strong case, just as far as we had any strong case. Of course, when you can prove actual payments of money, that presents another and stronger feature; but you can rarely expect to be able to prove anything of that kind by anybody who does not stand in the position of being almost *in pari delicto*, or at any rate in a suspicious position. Where one man swears that he paid money to an official, there being no other evidence of the subject, you can hardly expect to secure conviction; while such testimony as that in connection with other evidence such as I have described is important and very frequently conclusive. I felt, and still feel, that the Dorsey case was just in that position. We could get this aggregation of cases and show this coincident action on the part of the accused officials as to a number of routes, and then when we had succeeded in thus establishing the conspiracy, we would be able to put in evidence the only proof that we had of the actual payment of money, to wit, Mr. Walsh’s statement.

Now, passing from that, I will answer further your question as to what I did. At Long Branch Colonel Cook raised the question of proceeding by information. He had a case, I think from the 5th of Dillon, at least a decision of Judge Dillon’s, on that subject. It was rather a new idea to me, though I had proceeded by information myself in other cases in New York. The idea was not, as I recollect it now, to apply the information to the case of the Prescott and Santa Fé route. That case was supposed to be in such a shape that it could come promptly before the grand jury, and the witnesses were near at hand and could be got without much delay or expense to the Government. The question of the information came up more particularly at that time with reference to the Dorsey case. In that case it was clear that the witnesses, who were scattered all over the country, could be brought here only at considerable expense and after considerable delay, and the question was whether we should proceed by information in that case. At first my ideas were against it. Subsequently, on reading Judge Dillon’s decision and talking the thing over and recollecting some of my own experience, I was rather inclined to favor it. We left that conference, after it had

lasted two days, with the understanding that the other gentlemen would return to Washington, and that the Prescott and Santa Fé case, was to be got ready; that Mr. Walsh was to be communicated with as to the question I had raised about his consenting to become a defendant, and to be named as a co-conspirator, and that that case was to be proceeded with by indictment. As to the Dorsey case, it was to be next taken up and got along with as fast as possible, and the question of proceeding by information in that case was to be inquired into, and, if possible, we were to proceed in that way. Subsequent to that, I went back to New York, and I there took up very carefully the question of proceeding by information, and I found it involved in more difficulties than I had anticipated. While in New York, I learned by telegraph that the grand jury of that term of court here had been adjourned. It was a surprise to me. I knew nothing about the circumstances under which it occurred, and I know nothing about the disputed facts as to how it came about, but at all events we found ourselves with the grand jury having adjourned. The question of the statute of limitations was at all times one that we had to keep in view. The contracts on those routes had been made to commence in July, 1878. Many of Mr. Brady's orders, or most of the orders which were considered suspicious, had been made within a year or a year and a half of the making of the contracts—say in the first two years of the contracts. In one point of view the overt act which undoubtedly governed the question of the running of the statute of limitations was Mr. Brady's order for increase or expedition, and therefore we kept in view all through the cases the three years from that time, and were desirous of getting our indictments, if possible, within those three years; though I never felt and do not now feel that the statute of limitations barred proceedings in such cases. I think that in most of the cases the statute of limitations has not yet barred proceedings, because it seems to me that whenever any one of these parties, in pursuance of the prior fraudulent order of increase or expedition, took his quarterly pay, as he did once in three months, in that action of his you had then and there a new overt act which you could count as in connection with the conspiracy, and from which the statute of limitations could be dated. But, of course, there was something to be said upon the other side of the question, and therefore we endeavored to avoid being thrown down upon that theory. When I got to New York, as I have said, I devoted myself at once to careful examination of the question of proceeding by information, and on the 19th of September I wrote Mr. MacVeagh the following letter:

SEPT. 19, 1881.

HON. WAYNE McVEAGH,
Attorney-General:

DEAR SIR: It should be a very grave matter which would lead me to intrude upon you in the present complication. But I have made up my mind that it is *very* doubtful whether we can proceed by information. If so, and as the Statute of Limitations runs as to our best case—in one view of it—early in October, it seems to me that there should be a speedy conference and agreement as to what should be done. Colonel Cook writes me that our engagement for to-morrow is postponed because of Mr. Brewster's engagements. I write now to say that as we got at him only through you, I think we should meet him as soon as possible, and that I will go anywhere to do it.

After we get together and under weigh it will not, I think, be necessary to trouble with such details.

Your ob'd't servant,

GEORGE BLISS.

I pursued that examination and went into it very elaborately, getting one or two rare English books upon Conspiracy, and came to the conclu-

sion that we could proceed by information unless there was something in the local law of the district which forbade it. That turned upon the question whether conspiracy was an infamous crime. That question I looked up carefully, historically and otherwise, and I prepared a very elaborate brief upon the subject, of which I have a copy here, and which, as the committee will see, contains 32 printed pages.

From time to time I consulted with Mr. Brewster on that subject. I went over to Philadelphia several times, saw him and Mr. MacVeagh, and discussed that question with them. In connection with that, it became necessary to determine whether the law in the District of Columbia presented any other question than was presented in the ordinary forum or in the forum where I was in the habit of practicing, and that question I referred to Colonel Cook as the local counsel here, and was assured by him that he thought that under the local law there was no difficulty whatever with reference to proceeding by information. We went on. We got notice of a motion to strike the information from the files of the court and we prepared ourselves to meet it, and after I had prepared my brief, though it was rather outside of the scope of my portion of the case, I looked somewhat into the local laws of the District and became a good deal alarmed at what I found there as bearing upon the information, and I wrote Colonel Cook on the 31st of October as follows:

OCT. 31, 1881.

DEAR SIR: Our motion is for Thursday, and I will be ready. Have telegraphed Brewster.

Unless there is something in your local laws to the contrary, we are all right. *I am afraid of this.* How do you get along with U. S. v. Cross, 1 McArthur, 149? Isn't the syllogism police court has jurisdiction of all crimes not misdemeanors? If this is not an infamous crime the police court has primary jurisdiction. If it is infamous, then an information cannot be granted.

Yours, truly,

GEORGE BLISS.

Col. W. A. Cook.

I also wrote Mr. Brewster the following letter on the same day:

OCT. 31, 1881.

DEAR SIR: I have telegraphed you our hearing is fixed for Thursday. I expect to leave here on the "limited" Wednesday, and hope to pick you up and go on together.

I have heard from time to time that we were to be beaten by some local laws in local decisions applicable only in the District of Columbia, and have become anxious about it.

Look at United States v. Cross, 1 McArthur, 149, and see if it has elements of trouble for us.

Cook has always told me there were no local difficulties or decisions, and I have put the examination of them upon him.

Yours, truly,

GEORGE BLISS.

Hon. B. H. BREWSTER.

We came down here to the argument. We had a very elaborate argument, and were beaten, on the ground that there *was* a peculiarity in the local law of the District of Columbia which made a conspiracy within the statutes here an infamous crime, and that an information could not be filed in such a case, however it might be in other cases. Of course we were subjected to considerable criticism because of the result of that proceeding. I did not think anybody was to blame; I thought

it was a fair thing to try; but, however that may have been, if there was any blame anywhere it did not rest upon anybody but the local counsel, and I never felt that that was a matter of proper criticism upon him. During all this period, so far as time allowed, pending this examination about the information, and the preparation of the argument, I was led to give such attention as I could to looking into the evidence in the cases, and considering it more carefully, and after the information was thrown out of court the question came up as to whether we should proceed in the Prescott and Santa Fé case. I was very decided in the opinion that it was not wise to proceed in that case or to put it forward as a pioneer case.

Q. Who were the defendants in that case?—A. Mr. Brady, Mr. John L. French, the chief clerk, Mr. William H. Turner, a clerk, and I think there was a Mr. Brown in the case, and some others. As I have already stated, we were dependent in that case upon Walsh's testimony. Now, Mr. Walsh was but a single individual, and unless he would come to time, and would prove beyond all question the payment of money to Brady, we were gone. In other words, if we relied upon that case as a test case, we were relying upon a single link in our chain. After the decision as to the proceeding by information, which of course had a bad effect upon public opinion, and a bad effect upon us in a measure, I thought it was not advisable to put ourselves in that position. I may say further, that I saw things from time to time which led me to fear that if Mr. Walsh got the money which he claimed had been wrongfully taken from him he would not be for us an available witness; so that we might be in the position of having an indictment procured solely upon that testimony and then find Mr. Walsh dropping out. I was, therefore, very decidedly of the opinion that the Prescott and Santa Fé route should not be proceeded with as the next case. I understand that there has been a letter read here written by Mr. Gibson to the Attorney-General in January, 1882, upon that subject. My impression is that I never saw that letter. The Attorney-General usually showed me everything of that sort, and if he should say that he did show me that, he would undoubtedly be correct, but my impression is that I never saw the letter. At any rate, I have no hesitation in saying that, whether I had seen it or not, my mind upon that subject would not have been changed one particle. I did not then consider it wise to proceed with that Prescott and Santa Fé case, resting as it did upon the testimony of a single witness, and I do not now consider that it would have been wise. If there is any responsibility to be taken in connection with the failure to proceed with that case by indictment, I desire to accept it in the strongest measure, and to say that it was my judgment that it should not be proceeded with at that time, and that I still remain of that judgment and am prepared to defend it anywhere. I then turned, as soon as possible, to the Dorsey case. But, before doing that, I devoted some days to going over all the other cases which had been regarded as suspicious; going over them simply to the extent of looking to see whether there was any danger of the statute of limitations running against us in any of them, for I was keeping a weather eye on that all the time, and I made memoranda as to the earliest cases so as to keep clear of that difficulty. I found that we were in no danger on that point, and then I went on with the Dorsey case. I found that many of Mr. Gibson's statements, as I have said, were not correct, and that as to others, they could not be proved, if correct. I found an infinitude of detail which occupied me almost exclusively down to the 1st

of February. I gave some little time to my private business, but comparatively little, merely enough to keep it along, because I found these cases greatly more exacting than I had had any idea they would be; and on the 10th of October I wrote Mr. MacVeagh as follows:

OCT. 10, 1881.

DEAR SIR: The magnitude and difficulty of the job you have got me into grows upon me. This doesn't, however, trouble me, but I *am* troubled by the obvious fact that I must be in Washington much more than I anticipated, or than was represented. *Legally*, it looks as if I must take the laboring oar and this must chiefly be pulled in the muddy waters of Washington. If course, I will go through with it. * * *

Yours, truly,

GEORGE BLISS.

Hon. WAYNE McVEAGH.

I traveled between New York and Washington at night, and I worked here usually from either Monday morning or Tuesday morning until Friday evening, when I generally returned to New York, devoting Saturday, as far as possible, to my private business. But I want to say now that from the time I came here, in the middle of September, until the end of the first trial, I devoted to these star-route cases all the time that I was in Washington (including Sunday's, I am sorry to say), an average of sixteen hours of square work every day; and when I say sixteen hours' work, I mean sixteen hours at the desk, with no deduction of time for meals or anything of that kind. I worked here continuously and constantly, sitting up regularly until 2 or 3 in the morning over the cases, and when away from here I always took papers away with me, and worked upon them at home. I tried no individual cases in New York that I remember after that time, but simply did at home what was necessary to keep along my private business. I was disappointed a great many times in the progress that was made in the preparation of the Dorsey case. I know that on the 23d of December, 1881, I wrote to Mr. Brewster, saying:

DEC. 23, 1881.

Hon. BENJ. HARRIS BREWSTER:

DEAR SIR: On returning from Washington last night I found your kind and flattering letter of the 19th. * * *

I have twice been in Washington since I saw you, the last time for four days. Matters move slowly, and you have no idea of the immensity of detail involved. The Dorsey case is about ready for the grand jury. Only a few finishing touches are needed, which I can supply within a few days. Other routes are now being opened up than those of the Dorseys, and seem to indicate equal rascality. You doubtless saw in the papers some correspondence between me and James as to civil suits. I shall write you with reference to it more formally to-morrow. It was with the President's knowledge and approval.

Gibson has been away for some days, and Cook seems sulky. At any rate, neither are doing anything in our matters.

Yours, very truly,

GEORGE BLISS.

The case was not completed so early as I expected, and my recollection is that it was late in January before it was completed, though I think the subpoenas were sent out to the witnesses at the end of December or early in January. Getting at the names of the witnesses that were proper to be brought here was alone a matter requiring very long and careful examination. We had to go through all the papers and consider the different men, and see what was stated about them. It was

very important that no mistake should be made on that point, because in many of those cases the witness fees and mileage for a single witness (from Oregon, for instance) would be as much as \$800. Of course, therefore, we had to be very careful not to bring unnecessary witnesses, and at the same time we wanted to bring, as far as possible, witnesses who would be fair, and it required a great deal of care and occupied a great deal of time to make up the list. Then, too, of course, we must have witnesses to prove our whole case as to a given route. If we brought five or six witnesses here in relation to any one route, at heavy expense, and missed one whose testimony was necessary to cover a particular point, our chain was broken. It required a great deal of care and thought to guard all these points. Then, during all this period while the Dorsey case was thus under preparation, there came up various incidental matters. At Long Branch, at the first meeting, reference was made to a case against Mr. Lilley, who had been deputy auditor in the Post-Office Department. I will not undertake to say that the question of the statute of limitations was a danger there, but I have an impression that it was. At any rate, there was some reason why Lilley's case was brought up early, and that was spoken of at Long Branch, and on the 1st of October I wrote to Colonel Cook as follows:

Oct. 1, 1881.

MY DEAR COLONEL:

That there may be no misunderstanding, let me state my views as to the immediate future.

1. I see no reason why *all* the defendants named in the information should not give bail, good substantial bail, Brady in a round sum.

2. As to all but Brady ——— should actually be issued and served on all who haven't given notice they would surrender. As to those who have given such notice, they should be arrested, unless within a reasonable time they perfect bail.

3. As to the next case, Lilley, and also Dorsey, should be got ready for presentation to the grand jury, say the week beginning Oct. 24. Meantime you and I had better, each of us, draft one or more indictments for Dorsey. In Lilly's case the papers or copies are to be sent me.

4. I think immunity should be promised to no one without my concurrence, and that it should be done in pursuance of a defined system, by which the proposed witness must state in writing what he can prove, and then let it be decided whether we want him as a witness. We are bound not to let him suffer from his attempt. There must be confidence somewhere, and he must in the first instance trust us.

5. After Lilley and Dorsey, we should take some of the Salisbury cases, and I would be glad to have any reports and papers relating to them, though they are only partial, and have not been gone over by others.

Yours, truly,

GEORGE BLISS.

Col. W. A. Cook.

The evidence against Lilley rested entirely upon the statement of George F. Brott. Before I came into the cases, Brott had come to Mr. Woodward and had given him information in detail, which Mr. Woodward had written down; it being given under the assurance, as I was informed, that if he, Brott, kept faith, the information, of course, should not be used against him. Finding the condition of that information, and finding that Brott was somewhere in the West—I think in Minneapolis, or somewhere in Minnesota or Nebraska, I am not sure which—we sent for him. I had still my old feeling of fear of anybody who appeared to be in the nature of an accomplice escaping us. I had been euchred pretty badly once or twice while I was a green district attorney in New York, and therefore I took the precaution of sending a subpoena for Brott, and I also sent, unknown, a warrant, causing it to be put into the hands of a post-office inspector, with instructions that it should not be served

unless he found that, after getting the subpoena, Brott was disappearing—perhaps going to take a voyage to Europe—for we had witnesses afterwards who went to Europe. It turned out, however, as I now remember, that Mr. Brott had left the West to come here before the papers got there. At any rate, there was no apparent indication at that time that he had intended to evade service. Mr. Brott came here. We wanted him. We were waiting for him. He came, but instead of staying here, he went off at once somewhere else, and we could not ascertain where. Mr. Woodward was not here. I was a good deal worked up. I thought the indications were that Brott had come here and had been run out of town—persuaded to go away. There had been a proceeding, a warrant issued, and a complaint made before Commissioner Bundy, at Colonel Cook's instigation, and we needed Brott as a witness and he had been here and had gone and we could not discover where he was. Colonel Cook went in and took charge of that case, and was incontinently turned out of court; had not, practically, any evidence. It was so little of a case that the commissioner would not even grant an adjournment. As I say, I was a good deal worked up at the disappearance of Brott, and, getting the best information I could get, and with the concurrence, and I think a good deal at the instigation of Mr. Cook and Mr. Gibson, I consented to institute proceedings against Brott for an indictment, and they were instituted. Mr. Woodward was brought back here, and, after many assurances, he consented to go as a witness before the grand jury, although he claimed that it was not right as to Brott. My theory of Mr. Brott's conduct was that he had not kept faith, and that therefore there was no obligation on the part of the Government toward him; but I afterwards became satisfied that he had not attempted to evade us; that his coming here and going off without communicating with anybody had been accidental, and that the refusal at his house to give us information as to where he was, arose from a misunderstanding there, and, therefore, I was satisfied Mr. Brott had kept faith; although I had been for a time very decidedly of the opinion that he had not, and had congratulated myself that my theory that in dealing with an accomplice you must always treat him as an accomplice and not as a witness, was shown to have been a wise one. Before this, however, indictments were ordered against Lilley and Brott.

The question of the drafting those indictments has happened to be brought up here, and, in the mass of venom and misinformation which has been furnished to this committee, it has been asserted that the indictments were drawn up by Mr. Gibson and Mr. Cook. Now, in the first place, Mr. Gibson is so little of a lawyer that, having been employed as an attorney by the Department of Justice, when it became desirable to give him his pay, it required a good deal of investigation to ascertain that he came within the legal provisions as to counsel so that it would be proper to pay him as such; but it was finally discovered that some twenty years ago or more he had been admitted to the bar in Pennsylvania. As for Mr. Cook, I was determined that, if I could help it, he should never draw any one of the indictments for which I was to be in any way responsible; and for just this reason: Acting upon the suggestion that I had made that each one of us should draw a form of information, Mr. Cook drew up one and I drew another. I did not like Mr. Cook's, and I do not know whether he liked mine. I urged that there was a great deal in Mr. Cook's that should not be there, and finally it was arranged there should be two counts; that I should take one and Mr. Cook the other, and that I should nurse my baby and he should nurse his. He drew up the second count, and it was sent to

the printer, and after that I never paid any attention to it until, in the proof, I was looking over Mr. Cook's count, and I found that he had left out entirely the names of the parties; that it did not name any human being, but left the count to run back upon the persons named in my count. Now, I do not pretend to be a criminal draftsman, but I was a good deal shocked at that carelessness, as I thought it, and from that time on I did not wish that Mr. Cook should be allowed to draw an indictment in any of those cases, if I could help it, and therefore I always endeavored, in the other proceedings, to have something to do with drawing the indictments.

These gentlemen say I did not draw the Lilley and Brott indictments. All I have to say about that is, that when that testimony was given here there were present in this room Mr. Woodward, Mr. Cameron, and somebody else, and they went straight down to the Department and examined my papers, and there they found the original draft of the Lilley and the Brott indictments, which I have here now [producing them], and every iota of which is in my handwriting, with all the interlineations and changes. I was in New York at the time they found the papers, so had not any possible chance of "putting up any job" on you; and to avoid any such possibility, these gentlemen placed their names upon the drafts of the indictments, and there they are. I have compared them with the originals on file, and they are identical with the originals, and I think that if any inference can be drawn from the quality of the paper, the copies also must have been made by some of the clerks in the Post-Office Department who were detailed to do that work. I have not been able to get the clerks to ascertain that, but here are the original drafts of the indictment under each separate section of the statute.

Now, if there is any question as to who drew those indictments, I do not think the burden of proof rests any longer upon me; for you not only have here the draft of the indictments, with all the details, but if there is any desire to go to the originals you will find in my handwriting, interlined, "and agent," and you will find it running right through. You will find all sorts of pencil memoranda and directions—"Insert so and so in the indictment"—you will find those memoranda running from the beginning to the end of the indictments, though there may be possibly a word dropped out here and there. Here are directions as to how the indictments shall be drawn—"Make this like the other," and so on—all the directions for making up the indictments.

Now, as I have said, these Lilley and Brott indictments were based entirely upon the evidence of Brott; therefore, the moment it became clear that Brott had kept good faith it was perfectly clear that there could not be any proceeding against him based on this indictment depending upon his own testimony. But one of the difficulties was that, in consequence of the misunderstanding which I have mentioned, Mr. Brott ceased to be very friendly to us. Mr. Brott's wife had been subpoenaed by Colonel Cook to go before the grand jury. I don't know how she came to be brought there to testify against her husband; but she was, and there was a good deal of quite natural indignation about it, and the result was that Mr. Brott largely ceased to be an available witness, even against Lilley, and therefore that was not a case in which we could very well proceed. Again, the committee will bear in mind that when you came to Lilley you were dealing with one official, or late official, alleged to have been bribed by another person, your whole case resting entirely upon that. I don't say that you might not get a conviction in such a

case, but I do say that it would not be a wise thing to attempt to put that forward as a pioneer case.

A question has been raised here as to some statements which found their way out affecting Mr. E. John Ellis, a member of the House of Representatives from Louisiana, and it has been said that Colonel Cook testified that he never saw any such papers or had any such papers in his possession, or anything of the kind. Now, upon that point I have to say this, that the statements of Mr. Brott as to Mr. E. John Ellis were contained right in the midst of the papers giving his testimony against Mr. Lilley. They never were separated in the office so far as I know, and I am very confident that they never were separated there. Mr. Woodward kept the papers so carefully that I never was allowed to have possession of the originals. I got a copy, which was with the papers, and bore my memoranda, and if the indictments in the Lilley and Brott case were drawn by Colonel Cook and Mr. Gibson, then there was no possibility of their having any papers from which they could have prepared an indictment in that case except this statement of Mr. Brott, which, as I have said, included right in the midst of it the statement as to Mr. E. John Ellis. Therefore, either Mr. Cook and Mr. Gibson did not prepare those indictments, as they did not, or they prepared them from papers which contained the statement as to Mr. Ellis. But a copy of those papers was certainly in the possession of Mr. Cook at one time.

By Mr. STEWART:

Q. Is that a copy which you hold in your hand?—A. Yes, sir.

By the CHAIRMAN:

Q. Is that a copy of some of the papers which appeared in the New York Sun recently?—A. Yes, sir. Some of these have appeared in the New York Sun. I don't know that I desire to say anything more in connection with that.

During that fall we were interrupted in the course of the preparation of the Dorsey case by what were known as straw-bond cases. Messrs. Tidball and Shallcross, post-office inspectors, made a very careful and elaborate report (of which report, by the way, I see Mr. Gibson wants to take the credit largely to himself, when, to my personal knowledge, he is largely not entitled to it, for Mr. Tidball and Mr. Shallcross devoted a great deal of their time to it) against certain persons who had given fraudulent bonds on bids. The post-office law, as you gentlemen know, is somewhat defective. It provides that every bidder for a contract is to give a bond, which bond makes his surety liable not only down to the time a contract is obtained upon the bid, but liable during the entire time of the continuance of the contract. Bids come in in such numbers, thousands and tens of thousands, that it is, of course, impossible for any officer, and the law does not look upon the possibility of any officer doing it, to pass upon the question whether the bondsmen are good for anything or not. Any postmaster may certify the bond, and they used to get the postmaster at Culpeper or some other little place to certify the bonds, and that was the end of it. But when you come to the contracts, no bidder gets an average of one in thirty on his bids, and there the examination as to the bondsmen is more carefully made, and the result, in my opinion, of that provision of law is that it leads every bidder to start in with the idea of imposing on the Government. Thus, a bidder, Mr. Cabell, I think, got a man to go on his bond to the amount of \$1,000,000, basing it upon land which he claimed to own in Virginia; then that property was transferred to others, and they went on another

bond to the amount of a million or two million more. It was a most extraordinary condition of things. That report of Messrs. Tidball and Shallcross came in, and the President decided, with the concurrence of the Postmaster-General, that the attention of Congress ought to be called at once to that state of things, and he sent a message to Congress suggesting certain changes in the law. His object was to provide for a large letting which was to take place a month later; the advertisement was already out for it, and his desire was to get the law changed in time so that it might be applicable to the bids then to come in. There was no power under the law in the Postmaster-General to reject any of those bids, and the desire was to have that done, and the President decided, late in December, I think, to send a message of that sort to Congress. When the President decided to send in that message and to send with it the report of Messrs. Tidball and Shallcross, the result of such action would be necessarily to give notice to all those parties who it was believed had been guilty of wrong-doing in connection with what the Government was investigating, and there was danger, as it seemed to me, that they might escape, and therefore I thought there was no other course to pursue except to go into the police court and get warrants. I learned of the President's decision quite late in the day, and I remember that I sat up the entire night for the purpose of getting the papers so as to go promptly into the police court, in order that we should not be exposed to the charge that the Administration had sent to Congress a paper showing that A, B, C, D, or E had been guilty of certain crimes, and that it was designed as a notice to them to run away. I thought if it was conceivable that any party would seek by any investigation to make a political point, that if we had allowed that to be done it would have given an opportunity for a very strong charge against us, and I think it would have put the counsel for the Government in a position where it would have been very difficult for them to make a satisfactory explanation. The result was that we went into the police court and made complaints. I may say that there was another incident which made that course not disagreeable to me, and that was that there seemed to be a good deal of talk circulating here about "Star Chamber" business; that we were not giving the defendants in the Star-route cases a fair chance; that we were going to rush in before a grand jury and indicting them behind their backs, without giving them any chance to explain or defend, that we were blackening them, and so on. So we did go into the police court. We had to prove there two or three thousand bids, and we were met by this difficulty: We were required by the defendants, in the exercise of their legal rights, to prove each one of those bids, and to prove it technically and squarely. We were not allowed to produce it as from the Department solely. We were required to get the notary before whom it had been taken, and have him testify as to each one; and the defendants undertook to require the notary there in court to sit down and take each one of those papers separately and go over it, and we had a very long and very tedious time of it. There has been some criticism here, I observe, as to the length of time it took. Well, it did take a great deal of time. It did not, however, take anything like two months in any such sense as has been stated here. We would go along for a time, and then there would be an adjournment, and the matter would go over for some days. Finally, I got ahead of the gentlemen on the other side by just hiring the notary and setting him down in the Post-Office Department, where these files were, and having him carefully examine each one of those bonds—examine them and mark them—and then when he

went into court with the whole batch, he had made his examination out of court instead of taking time to do it in court, and the judge let them in in that way, although at an earlier stage, when that plan was contended for, he had rather indicated that it was not a proper thing to do. Now, if there is any question as to whether those cases were unduly prolonged by the prosecution in the police court, I will ask this committee to send for Judge Snell. I have not seen Judge Snell for months, or for a year; but I am perfectly willing to let that matter rest upon his opinion. The cases were pressed as strongly as possible, but they were elephants, because we were forced into the police court by the decision of the President that it was necessary for the public good to call the attention of Congress to this straw-bond matter; and when got in there, the defendants, in the exercise of their legal rights, interposed all these delays. At certain stages, I think some of the defendants did talk of waiving an examination and being bound over for the grand jury; but that was at a stage when we thought it not wise that that course should be taken. We had not proved the bad features of our case, and there had been such a general hullabaloo through the press that we had "no case," and various statements of that kind, that we thought it wise, having got into the police court, to continue our case and prove it, so as to show the general features of it.

Now, you have asked me, Mr. Chairman, to give a statement of what I did in the star-route cases. Well, I lived, and breathed, and ate those cases for two years. I ought to say, at this point, that quite early the question came up about some of the counsel going before the grand jury. I was a good deal embarrassed, because, from sources which I was bound to respect, from sources which I never could state without permission and which I have no right to state now, I ascertained that leave would not be given for Colonel Cook to go before the grand jury. Colonel Cook had been sworn in on the appointment of the Attorney-General, and I always felt, and feel now, that the question as to whether an assistant district attorney, appointed by the Attorney-General, has a right to go before the grand jury, is a very doubtful one; and a very different one from the question whether one of the assistant district attorneys, selected by the district attorney himself, has a right to go before the grand jury. Though, even that question, whether even an assistant, appointed by the district attorney himself, has such a right, was very seriously litigated in New York, and finally settled by a decision of Judge Nelson. When I came here I found that the district attorney was not in the habit, ordinarily, of being represented before the grand jury. Colonel Cook was anxious to go before the grand jury in this case; but from time to time I objected and dissuaded him. I thought it was a very doubtful question whether he had any such right. The committee will see that if you recognize the right of the Attorney-General sitting here in Washington to appoint an officer who shall be authorized to go before the grand juries over the heads of the local district attorneys throughout the country, you are giving the Attorney-General a very great power over proceedings; and a power as to which I think there may well be doubt whether it was intended to be given. But if the district attorney of a given locality chooses to swear anybody in as an assistant, that is his matter; he is the officer immediately responsible, and there is much less likelihood of abuses arising from that. At any rate that, was the difficulty that I had in my mind.

By the CHAIRMAN:

Q. Was there any difference between the terms of your appointment

and the terms of Colonel Cook's appointment?—A. That is just what I am coming to. When we came to the Dorsey case, that was so large and complicated a case that it was very clear that somebody must go before the grand jury. I went and consulted Judge Wylie as to my authority to do so. As a result of that consultation I went to Colonel Corkhill and got him to appoint me one of his regular assistants; and I was so appointed, and did not go before the grand jury until I was so appointed; and it was one of the points raised and litigated very severely by the defendants in the case, that I did go before the grand jury even under that appointment and under such circumstances. They came into court with a most insulting affidavit, an affidavit containing such terms that Judge Wylie declared it should not be received, and held that it was perjury, all based upon that. The point was litigated and argued, and Judge Wylie decided that I was rightly before the grand jury; but I was there as Colonel Corkhill's regular assistant, and not by virtue of my appointment by the Attorney-General. Before I went I took pains, as I have stated, to be so appointed and to file my appointment by Colonel Corkhill in the court, to take an oath over again, and be in all respects precisely in the position of a new officer. That is the distinction that was made, and I believe there is a real legal distinction there. At any rate, I did not feel that it was right to trust the presentation of those cases before the grand jury to an officer appointed by the Attorney-General. There was another ground upon which I objected to Colonel Cook's going before the grand jury, and that arose from his talk about his relations to the jurors and the personal influence that he could exercise over jurors. His statements on that point were such as I never had been accustomed to hear, and they shocked me greatly.

Q. What was his view?—A. His view was that he had a right to interview the grand jurors and talk to them—to coach them, and suggest to them, and everything of that sort; a view which I did not regard as correct at all. I do not mean to say that there was anything improper in it, but his view differed from mine on that point. I never told him of it. I never have said this before; but I did object to his going before the grand jury; I did not think it was right. I accept that responsibility.

Now, the Dorsey case was before the grand jury a good many weeks, probably three or four weeks. As soon as we got done with the preparation of the Dorsey case I turned, as my letter shows that I proposed to turn, to the examination of some of the other cases concerning other contractors. I turned first to the Salisbury cases. I went over them; went through the inspectors' reports, and everything of that sort; went through the papers in the Post-Office Department, and I was painfully impressed with this condition of things. I had no evidence of it; but I believed, and I believe implicitly to-day, that the files of the Post-Office Department, so far as they related to certain of the Salisbury routes, had been interfered with—in a technical phrase, had been "milked," and that many of the papers had disappeared. You would take up the papers on one of the Salisbury routes, and in the case of a contract extending over three or four years you would find only a little bundle of papers so thick [indicating with his hands]—nothing that would aid you at all in the case. Then going to a Dorsey route you would find a bundle, perhaps four times as thick, bristling all over with papers which you could present in court, or which, to say the least, were very suggestive and very useful in bridging over evidence. Finding that condition of things, I just did the best I could. I set to work and picked out what routes I could, endeavoring to find routes particularly of the Salisbury combination,

and next of the Parker combination and the Kerens combination. I speak of them as "combinations" because they came to be spoken of in that way. After consultation with Mr. Woodward, and Mr. Lyman (then chief clerk to the Second Assistant Postmaster-General, and now Second Assistant Postmaster-General, a gentleman who has more information than anybody else in connection with the postal service except Mr. Woodward), I selected certain routes, as to which I made up my mind that I was going to put them before the grand jury, and I sent subpoenas west for witnesses. Let me say here that my experience was, from the outset, that no Department of the Government had so efficient, so faithful a set of men as the Post-Office Department had in its post-office inspectors; and I also found, and I think this committee will not differ with me on that point, that deputy marshals were exceedingly unreliable. I could not use deputy marshals in serving process or papers, and the result was that we had to use the post-office inspectors, who proved to be wonderfully faithful. Through snow and through rain, and through every obstacle, they went for their witnesses and they got them. The result was that I summoned here witnesses on the route from Pembina to Fargo, one of the Salisbury routes; witnesses on the route from Wells to Hamilton, in Nevada, and witnesses on the route from Soledad to Newhall, in California. All of those routes, I think, were in the Salisbury combination. I summoned, also, witnesses on the route from Vinita to Las Vegas, a very long route which was in the Parker combination; witnesses on the route from Rock Creek to Etchetah, in Wyoming, which was Patrick's route; and witnesses on the route from San Antonio to Corpus Christi, which was a Price route. Generally I examined witnesses on what seemed to be, so far as any evidence we had indicated, the most vulnerable route of each one of those combinations. I put the cases before the grand jury. You have been told here time and again that there was never any attempt to indict anybody else. Now, the fact is that I put before the grand jury which found one of the indictments against Dorsey, and therefore is not to be impeached as not willing to indict "star-routers"—I put before that grand jury witnesses on all these routes, and I expended for the Government not less than \$10,000 in bringing those witnesses here. I made, as I believed (though of course I am bound to yield to the grand jury), a good case on the Fargo and Pembina route. There had been a transfer of that contract and one thing and another, and we got right inside; we got the books of the original contractors and everything of that sort, and I thought I made a very strong case. I see, by the way, that in the published report of the inspectors the Pembina and Fargo route is not included, but the Wells and Hamilton is. On that route there was substantially this condition of things. The contract was in favor of one of the Salisbury stage drivers. Before the contract commenced they went to the people who had been running the stage for passengers over that route for many years, and made an arrangement to pay them for carrying the mail a good deal less than they got for the service, and the stages, for the convenience of the owners and the passengers, ran at a good deal faster rate of speed than the contract required the mail to be carried at. After a time they threw down the mail and declined to carry it any more, and then promptly, not a trip of the mail being lost, it was taken up under a temporary contract made with the Salisburys at an immensely advanced price, and it continued to be carried right along on the same stage line without any change in speed or anything else, and then after that came a requisition for expedition and all that sort of rascality. We had evidence of all that. I do not understand why the grand jury

failed to indict. There must have been weak points in the case, because I think you will all agree with me that with a case so strong as that and an honest grand jury, as that grand jury apparently was, it would seem inevitable that there should be an indictment. At all events I put that case before the grand jury. When I came to the Soledad and Newhall case that was unexpectedly weak. Perhaps I had been careless, but at all events the case was weak in a sense which brought home to me one of my own theories. It turned out that the order in that case had been made by Mr. French, the chief clerk. Therefore, in that instance, we could not go to the grand jury with the force that we could command in these other cases, a force which depended on *repetition*, order after order; and, as one of the grand jurymen said to me, "Mr. French ought not to be indicted; that was an extravagant thing, but French may have been imposed upon." And I am bound to say that in that view of the case I was not surprised when that grand jury failed to indict on that route.

Q. To what combination did that route belong?—A. As I recollect, that also was one of the Salisbury routes. Now, on the Venita and Las Vegas route, which was one of the Parker routes, I was under this difficulty. In the first place, the route had never been thoroughly examined. It had been all broken up by advancing railroads, and nearly everybody who had been employed there had disappeared so that they could not be found, and the inspectors who had gone over the route had been over it somewhat by piece-meal. It has since been gone over very elaborately, I understand, and the missing evidence has been substantially supplied. One of our witnesses, who was an important witness, turned out to be absent when our officers got out there to subpoena him; he was driving a drove of cattle overland from California, and we could not get him.

Q. What was his name?—A. I do not remember. Another witness whom we got and brought here, a witness who, in the examination made by the post-office inspectors out there, had given valuable information, and with whom, in connection with the papers, even without other witnesses, I felt confident of an indictment, turned out not to be so good a witness as we had anticipated. His memory was not so good as it ought to have been. He did not remember things in the way they had been stated out there. I never was quite able to understand whether it was a case of honest weakening of memory or not.

Q. What was his name?—A. I do not remember it now; I cannot recall it. I have dealt with so many of these people that I am unable to retain all the names. The result was that while I thought that as a grand jurymen I should have indicted on the Venita and Las Vegas route, I could see that there might be some reason why the grand jury might not do so.

Now, as to the Rock Creek and Etchelah route we had this condition of things: An absolutely essential witness, without whom we could not do anything, was subpoenaed, but instead of obeying the subpoena he went off to Utah on some cattle business and staid away. He was a man who was believed to be, whether rightly or not, I do not know—at any rate he was a man who had handled pitch a little, even if some of it had not stuck to him. He turned up in Washington. By his own admission he had been wandering around the country, and he appeared here the very day that the grand jury had been discharged. The other witnesses were of no use before the grand jury without him, and therefore the expenditure of two or three thousand dollars that I had incurred in bringing them here was made useless by his absence. I re-

fused to certify for that man's fees, and he had the impudence to take an appeal from me and to go to the Attorney-General and insist that he was entitled to fees and mileage, but he did not get it. The name of that man was Thayer; he was a son of ex-Senator Thayer, of Nebraska. The result on the whole was that, to my surprise, as I have said, after I had put these cases before the grand jury and had examined the witnesses, the papers came back to me indorsed in each case by the foreman, "Dismissed, John T. Mitchell, foreman." There were four of those cases, one on the route from Vinita to Las Vegas, another on a route from Wells to Hamlington, another on the route from Soledad to Newhall, and the fourth on the route from Fargo to Pembina, and I have the papers in each case as they were returned from the grand jury indorsed "dismissed."

Q. Were those the indictments that you prepared?—A. No; the indictments were not prepared beforehand. These papers that I have here are the briefs of the evidence. I put the witnesses before the grand jury, and then was requested to hand to the foreman a brief of what I thought the papers presented, and these are the briefs. In the other case a Price route, from San Antonio to Corpus Christi, and from Monroe to Shreveport, the grand jury ordered an indictment. I was pretty "sick" when I got these papers back from the grand jury with the indorsement that they were dismissed. The briefs here referred to are as follows:

A.

Vinita to Las Vegas. Route 32024, 725 miles. Once a week. Ten days. Virgil W. Parker. \$6,330.

Sept. 27th, 1878. Hayes, Tascosa, and Wheeler were added.

(On the margin:) By another order 12 miles were added, and 535.77 for Seven Oaks, though it was directly on the route.

Of these offices, Hays cannot be found, Wheeler was discontinued. Wheeler and Tascosa were directly on the line, yet they were ordered to add 85 miles to the route, and \$842.38 was added for that. This was before expedition and increased service. By expedition and increased service the cost of these paper miles was greatly increased.

Dec. 1st, 1878. Two trips were added and \$12,000 allowed. This order, and that adding Tascosa, etc., were modified so as to allow together \$23,573.79.

Nov. 16th, 1878. J. W. Parker became subcontractor at full pay.

Jan. 1st, 1879. Time was reduced to 7 days, and \$31,846.31 allowed. This brought the total pay at that time up to \$50,836.31.

Jan. 12th, 1879. The P. M. at Vinita wrote that the service was superfluous; that there were no intermediate office that amounted to anything, and that in over three months he had received less than 50 letters and a half dozen papers.

Feb., 1879. It appeared that the mails for Darlington and Fort Elliot, the chief intermediate offices, having been directed to be forwarded from Vinita over this route, but that for weeks none had been delivered.

P. M. at Darlington wrote that only 2 papers and two letters had passed over the route, and that there was no road to Vinita.

P. M. at Vinita made same report.

These facts were expressly called to Mr. Brady's attention March 17th, 1879, and he directed that no change should be made.

March 8th, 1879. Chambers, P. O. inspector, wrote the Department that a movement was on foot by interested parties to secure further increases, and he believes it wrong. The route as let was really 638 miles long, instead of 725, as advertised. This appears from distance circulars. By the addition already noted, the Department, on paper, made the distance on March 19th, 1879, 810 miles, and the time, having been by expedition put down from 10 to 7 days, was then, in consideration of the alleged increased distance, put up to 9 days.

July 6th, 1879. Service was increased to seven trips and 86,052.59 allowed. This carried total pay, which had began at \$63.30, up to \$136,883.90.

There were numerous petitions for this from St. Louis and members of Congress and Army officers.

Letters from E. W. Parker, the brother to Parish, show how this was done.

The revenues of all the offices were 520.22.

April 30th '79. P. M. at Vinita who had written against the route was removed as Brady's demand, though the inspector reported in his favor.

April 22nd, 1880. P. M. at Red River Springs wrote transmitting a letter from E. W. Parker, seeking to bribe her.

Aug. 1st, 1880. Service reduced to 3 trips, and \$64,539.44 deducted.

Superintendent railway mail system. P. M. at Mohute or Fort Elliot, at Darlington, says route of no use.

Aug. 6th, 1879. An inspector reported to same effect.

March 19th, 1879. 69 miles were added to embrace several stations on the west end of the line, and \$684.59 allowed. This was for another change from a route which they had never traveled, and which was impracticable.

In fact, with all the additions, the road is 1 mile less than advertised.

The fictitious distances took from the Treasury after expedition \$31,973.97 a year, A saving of one day out of ten cost \$94,336.39 a year.

Letters show a disposition to singe Hunt, superintendent of mail service.

[Indorsement.]

Dismissed.

JOHN T. MITCHELL, *Foreman.*

B.

Wells to Hamilton, No. 45132. Distance, 225 miles, 3 times a week, 108 hours. O. J. Salisbury, contractor, \$10,700.

Originally let to Joseph Evans at \$5,900 a year.

John T. Gilmer, of Gilmer, Salisbury & Co., had the order for the mails from Evans, who was a stage-driver under them. Gilmer arranged with Woodruff and Ennor to carry the mails. They did so. About January 1st Gilmer told P. M. at Wells he would not take the mails any more, so Evans did not or would not pay him; there-upon Evans was declared a failing contractor. Gilmer then got control of the bids next above Evans till they came to O. J. Salisbury, at \$10,700, and he took the contract.

Woodruff and Ennor carried the mails right along while Evans was nominated contractor, after the failure, and under Salisbury.

Monroe Salisbury became subcontractor at full amount on July 8th, 1879.

July 23d, 1879. Time expedited from 108 hours to 48 hours, and \$15,000 allowed.

For about half the distance from Wells to Hamilton, Woodruff and Ennor have carried the mails as subcontractors. They have always and for years carried the mail over their half of the route in from 12 to 14 hours, and when expedition was ordered they made no change, except that while they had in winter laid over-night at Sprucemount, during a month or two of last winter they did not do so.

On that end of the road *expedition did not expedite.*

As to the other end, there was no change in time after expedition. The mail was, moreover, not carried on the route let, but was carried by another route from Cheny Crick to Ely, where it intersected another route were by the chance contractor, and the mail from Ely to Hamilton was therefore carried on the latter route. The contractors 15 or 20 miles in this way. It would seem, however, that so far as the people everywhere, *except at Hamilton*, were concerned, this unauthorized change, while benefiting the contractors, certainly did not injure any one else. But it was a violation of their contracts.

To obtain expedition, Monroe Salisbury swore that on a schedule of 108 hours 7 men and 18 animals were required, and in 48 hours 18 men and 50 animals would be required. In fact, the number in use at the time of the oath were 10 men and 30 horses, and not more than that amount were used afterwards.

There was a number signed petition for expedition. But in point of fact it had not over half a dozen names of persons residing. Nine-tenths of the signers lived at Eureka, on an entirely different route.

As to Brady in this case, the question is, whether he was not bound to know or ascertain that no expedition was necessary, as the mail was already being carried in less than the expedited time.

As to O. J. Salisbury, he seems to have been a sort of dummy. Monroe Salisbury was the sole contractor. His route was certainly false. If Brady is not included there are not *two* conspirators, unless Gilmer can be included.

[Indorsement.]

Dismissed.

JOHN T. MITCHELL, *Foreman.*

C.

Soledad to Newhall. Route No. 46120. Let 7 times a week; time, 67 hours; distance, 304 miles. Contractors, M. V. Nichols, D. J. Salisbury. Pay is let, \$29,000.

Case sought to be made out is against them and John L. French, who ordered expedition.

Oct. 4th, 1878. Time reduced from 67 hours to 53 hours, and \$27,750 allowed therefor.

Expedition was granted upon an affidavit of Nichols that in the schedule there was required 130 horses and 34 men, and that a schedule of 53 hours would require 258 horses and 64 men.

Wm. Buckley, an old mail-carrier, swore that he had carried the mail over the whole of the route for some years before the present contract began, and that he has been, and is now, subcontractor for 115 miles from Soledad to San Luis Obispo, about one-third of the whole route, and at least as hard as the rest. Before expedition he employed 11 men and 32 horses = 43; after it, 13 men and 48 animals = 61. Applying the same proportion to the whole route, there would be before expedition 33 men and 496 horses; after it, 39 men and 144 animals. Mr. Buckley said that perhaps 160 animals were necessary after expedition.

OATH.

Before expedition, 34 men, 130 animals=164.
After expedition, 64 men, 258 animals=322.

BUCKLEY.

33, 96=129.
39, 160=199.

Mr. Buckley says that expedition did not hurry the arrival of the mail going north at their most important point, as they lay over night at Soledad.

As French made the order, he can be charged with none of the odium attaching to Brady. This fact, I think, I failed to call to the attention of the grand jury.

As to French, therefore, the case is not strong to show he acted in bad faith, which in his case is necessary to indictment. He had numerous petitions before him.

As to the contractors, the case rests in the oath.

There is evidence of sharp practice by the contractor with the subcontractor, but this does not concern the grand jury.

[Indorsement.]

Dismissed.

JOHN T. MITCHELL, *Foreman*.

D.

Route 35040. Dak. Fargo to Pembina. 156½ miles and back. 6 a week. Luke Voorhees, \$17,000.

SCHEDULE.

Leave Fargo daily, except Sunday, at 4 a. m.

Arrive Pembina third day at 6 p. m.

Leave Pembina daily, except Sunday, at 4 a. m.

Arrive Fargo third day at 6 p. m.

1878, July 30th. Order 6056.

From August 1st, 1878, expedite schedule to 43 hours, from May 1st to Oct. 31st, and to 50 hours from Nov. 1st to April 30th, in each year, and in accordance with sworn statement of contractor, that it will require fifty per cent. more stock and carriers, allow \$8,500 per annum additional pay. Increase service to seven trips per week, and allow contractor \$4,250 per annum additional, being pro rata.

CONTRACTOR'S OFFICE.

Hon. THOS. J. BRADY, *etc.* :

I will perform service on Route No. 35040 from Fargo to Pembina on a reduced schedule from sixty-two hours to forty-three hours, in summer, and fifty hours in winter, for an increase of pay of eight thousand five hundred dollars per annum, this being pro rata pay, in proportion to men and horses required to perform said service on reduced schedule, and will perform the seventh trip per week for pro rata pay.

LUKE VOORHEES.

Oct. 10, 1878.

Reduced service to 6 a w., deduct \$4,250, Aug. 1st, 1880.

Dist. increased one mile for new office (addl.), \$162.94, Nov. 15th, 1880.

Dist. increased $\frac{1}{2}$ mile for new office (addl.), \$81.47.

Present cost of service, \$25,744.41; six trips, \$17,162.94.

Expedition, \$8,581.47. Total, 25,744.41. Cost of service last term, being part of E. 2034 on a four-day schedule, \$18,421.37 per annum.

The six times a week service was originally placed on the route after consultation with the Canadian P. M. General, as it is the main line for Manitoba mails.

Senator Windom and Hon. J. E. Kidder ask the increase and expedition.

Affidavit.

I hereby certify that it will take 50 per cent. more men and horses to perform mail service on Route No. 35040, from Fargo to Pembina, on a reduced schedule from 62 hours to 43 hours in summer and fifty hours in winter.

LUKE VOORHEES.

Subscribed and sworn to before me this 17th day of July, 1878.

E. M. MAN,
Notary Public, Laramie Co., Wyoming.

[Indorsement.]

Dismissed.

JOHN T. MITCHELL, *Foreman.*

That brings me to another little feature of this business. After the witnesses began to come here in these cases, Colonel Ingersoll (who was counsel for the Salisbury and Parker combinations) said they claimed they did not owe the Government anything and that it was not fair to indict them, and he said they were perfectly willing to make some arrangement by which, if they did owe the Government anything, it should be paid promptly, and were willing to leave the question substantially in the Government's hands, only that they desired to make the condition that criminal prosecutions should not be proceeded with. I replied at once that that condition I could not accede to. I assumed that those parties knew that the witnesses were here in those cases, though I never said so, and nothing was said to me that indicated that they did have that knowledge. However, the proposition was made from that side that we might pick our arbitrators, but they wanted criminal proceedings stopped, and they wanted that to apply to all the Salisbury routes. I said that I would not consider that proposition on such terms, because there were a great many of those Salisbury and Parker routes that I had not investigated, and I would not think of agreeing to stay criminal proceedings so far as related in any manner to the indictments. My impression is—I would not say it was a fact—that if I had been willing to negotiate with reference to all the Salisbury and Parker routes, probably there might have been some arrangement made; but at any rate we broke on that, and I went ahead with my indictments, or with my proceedings before the grand jury. I got these papers back from the grand jury late one night. So far as the overt acts relating to the orders were concerned, it was impossible to get another grand jury before the statute of limitations would run as to those. I hurried down to consult with Mr. Merrick, and it was agreed that we would see if we could not save something out of that wreck in some way, by resuming the dropped negotiations with Colonel Ingersoll, and we did that, keeping concealed entirely the fact that there had been a refusal to find indictments. They had never said to us that they knew we were trying to indict, or that they knew the witnesses were here, or anything of that sort; it never had been talked about between us at all. The result of that negotiation was that I finally came to an agreement with Colonel Ingersoll as to the Salisbury routes, which was reduced to writing. Before that was done the

Attorney-General was consulted, and he said it was a matter that he knew very little about, and which he would leave for Mr. Merrick and myself to decide.

By Mr. STEWART:

Q. Did Mr. Merrick concur with you?—A. Yes. Mr. Merrick hadn't anything to do with it actively. I got this information about the action of the grand jury one night, as I have stated, and I saw that if I wanted to resume the negotiation I must do it as soon as possible; so I went right down to Mr. Merrick's house and told him what I proposed, and he concurred. We considered the mere general question as to what was best to be done. We consulted our authorities and discussed the matter, and concluded that it was best to give ourselves the benefit of all the doubts, and I resumed my negotiation with Colonel Ingersoll, and we made an agreement as to the Salisburys, confining it to four routes. There was another route which I had not put before the grand jury, but which I was sorry I had not—the route from Silver Bow to New Chicago. I made an agreement with Colonel Ingersoll in relation to these Salisbury routes, the substance of which was this: That the Salisburys were to stand in the gap; were to become responsible for Luke Voorhees, and for every stableman and driver that they had put up as a contractor, and to whom or to whose subcontractor the money had been paid. In very many cases the Salisburys were not the contractors, and the money they had got they had got as subcontractors, or frequently not even as subcontractors; but the men who were the contractors were their stablemen, drivers, and so on.

Of course as the grand jury had refused to indict, we were looking to get back the money as far as we could, so I looked upon it as a very important thing to get the Salisburys to stand in the gap and be responsible for all money that had gone to their drivers and to these other parties. Of course it was possible that we could not get those parties into court, at least it was involved in great difficulty, because we would have had to prove their connection with the fraud and so would have had to go into details. Moreover, owing to the subcontract law passed a few years ago, there are very serious difficulties interposed in such cases. You recognize the subcontracts and put them on file and the subcontractor gets his money on his subcontract, and although you may be able to show that the expedition and increase and so on are all fraudulent, yet he may be able to say, "I didn't know anything about that; that is the contractor's business." Well, it was agreed that Col. Ingersoll should be one of the arbitrators, Mr. Elmer, the Second Assistant Postmaster-General, another, and I the third; it being avowedly understood that there were two representatives of the Government upon that arbitration, two who believed that the Salisburys owed the Government money; and it was agreed that the arbitrators should act by a majority and upon any evidence satisfactory to them. In my opinion it was about as one-sided an arrangement as was ever made. I regarded it as a very desirable arrangement for the Government, and I think so still.

Q. You say that was reduced to writing?—A. Yes; I have a copy of it here, and it happens to be one which was really submitted and signed by Colonel Ingersoll, and which bears interlineations showing changes that were made in it while we were going through the negotiations. It runs in this way:

It is claimed by the Government that Monroe O. J. Salisbury, Luke Voorhees, M. V. Nichols, or some other person or persons representing or connected with the Salisburys, has or have received moneys from the Government to which they were not

legally entitled, on the four following postal routes, namely: Wells to Hamlington, Fargo to Pembina, Soledad to Newhall, and Silver Bow to New Chicago.

It is therefore agreed: That the claim of the Government in the said four routes, or any of them, shall be referred to Richard A. Elmer, Second Assistant Postmaster-General, George Bliss, or any one that may be designated by him, and Robert G. Ingersoll, or any one that may be designated by him, to determine whether the said parties, or any of them, have received from the United States any money to which they or any of them were not entitled for transporting the mails upon any of the four said routes mentioned.

It is further agreed that the said referees, or a majority of them, shall have full power to decide all questions submitted, and to act on any evidence satisfactory to them, or a majority of them, and if they, or a majority of them, find that on said routes, or any of them, money has been so illegally received, it shall be refunded on demand, or may be recouped by the Government.

If the Government hereafter institutes any other proceedings against the said parties, or any of them, on account of any matters growing out of the said four routes, then this submission shall be void.

This instrument does not affect the ordinary proceeding of the Post-Office Department as to fines, penalties, and stoppages during the pendency of this arbitration.

That was signed probably somewhere about the 15th of June, 1882. Colonel Ingersoll was able to say that he was authorized to represent the Salisburys, but on the question of the Parkers I think there was a little doubt about his authority, and he wanted to get some more explicit authority by telegraph. A similar arrangement, however, was made with the Parkers, identical in terms with this Salisbury arrangement. I do not think I have a copy of the arrangement with the Parkers. It related to the Venita and Los Vegas route. It was signed two or three days later than the other. Then, in point of fact, the condition of things was this: On the morning the grand jury were to come in, and when it would appear that they had refused to find a bill on the Venita and Los Vegas route, Colonel Ingersoll sent to me to say that he was prepared to sign the stipulation for the Parkers. I returned word that I would do it at any time before the grand jury came in, but I would not say that I would do it afterwards; and the paper was actually signed while we were sitting in court waiting for the grand jury to come in; and pretty soon they came in and it appeared that they had found no bill.

Q. What was done thereafter with regard to that compromise?—A. You can hardly call that a compromise.

Q. Agreement then?—A. An arbitration I should call it. We plunged at once almost into the first trial of the Dorsey case. This was about the middle of June, and I think we commenced that trial about the middle of June.

Mr. WOODWARD. The Dorsey trial was going on then.

The WITNESS. Mr. Woodward says the trial was going on then, and I believe it was. At all events it was agreed that we were none of us in any condition to proceed with the arbitration then, and it was arranged that it should be taken up when we got through the other trial. When we did get through we were all very thoroughly worn out, and at the time I was summing up the case my wife was supposed to be at the point of death, not expected to live from day to day, so of course as soon as I got through I went to her. We were all tired out. After a time I desired to proceed with the arbitration, and as it was very clear that I had authority to designate somebody in my place, it seemed to me that, for various reasons relating to expense, and also for other reasons, it was wise to select a Government officer, so I designated Mr. Lyman, now Second Assistant Postmaster-General. Therefore, if the arbitration had gone on it would have been conducted by Colonel Ingersoll, representing one side, the Second Assistant Postmas-

ter-General, Mr. Elmer, the other, and his chief clerk, Mr. Lyman, as the third arbitrator. I transmitted this designation to Mr. Elmer, first writing a letter about desiring to proceed with the case, and then transmitting the original paper with my substitution. Mr. Elmer, however, was reluctant to proceed. He felt this way, and perhaps I did not blame him. He felt that public opinion was in a very excited condition, and that if he should go on with this arbitration, and should finally find that these parties owed the Government even \$10,000 less than some gentlemen of the press or somebody else chose to say was due to the Government, there would be at once an allegation that there had been some "divide," or some corruption, or something of that kind, and for that reason he was unwilling to proceed; but he said that if it was found to be his duty to proceed he would do it, at the same time expressing in writing his very decided opinion that these gentlemen owed the Government a great deal of money. Mr. Howe became Postmaster-General, and then there was raised a question as to whether the arbitration was authorized, whether it bound the Government, or whether they could enforce it against the other parties, and it was decided, I understand—I never saw the correspondence until yesterday—it was decided, I understand, or at least all the correspondence that I have seen points to the conclusion, that there was very considerable doubt as to whether there was a right to proceed with the arbitration; but that if there were, in form, suits commenced, then they could be referred to arbitration, and to the same arbitrators, and it could be done by agreement provided the parties said to owe the money were acting in good faith and were willing to do it. I do not know whether they were willing to do that or not, but I do know this, for it appears from the papers, that they offered at one time to give bond to comply with the terms of the arbitration. My personal judgment was, and I put it in writing very strongly, that the proper course for the Government was to proceed with the arbitration until it got to a point where the defendants (I speak of them as defendants for convenience) should indicate that they were not going to be bound. They never did indicate that, so far as I know. I believed then and I believe to-day that that agreement was entered into in good faith by those parties, that they did intend to be bound by it, and that they certainly would have been bound by it if it had been proceeded with. But as to the question whether the Government was legally bound by our acts, I recognized that there was considerable doubt as to the right of attorneys to submit the claims of the Government to be decided in that way, and there was some doubt, perhaps, as to whether the decision of such an arbitration could be enforced against the Government. There was a decision of the Court of Claims which looked as if it could be, and another decision which looked as if it could not be. My idea was, that the Government should have gone on until it ascertained that those parties were not acting in good faith and did not intend to be bound by the arbitration; and, as I have already said, I never saw any reason to doubt they were acting in good faith and did intend to be bound. However, the arbitration never was proceeded with, but it was not my fault.

Here the examination was suspended and the committee adjourned.

WASHINGTON, D. C., *March 21, 1884.*

GEORGE BLISS recalled and further examined.

The WITNESS. In connection with what I said yesterday about the matter of arbitration, I desire to put in one or two letters. I have a letter here, or a press copy, rather, of a letter written by myself on the 24th of November, 1882, addressed to Hon. Richard A. Elmer, Second Assistant Postmaster-General. That letter is as follows:

NOVEMBER 24, 1882.

DEAR SIR: I now inclose to you the original agreements of arbitration made in the Salisbury and Parker cases. I have indorsed on them a substitution of Mr. Lyman in my place. I remain strongly of the opinion that the cases should be at once proceeded with. Mr. Merrick agrees with me.

Your obedient servant,

GEORGE BLISS.

Hon. R. A. ELMER,
Second Assistant Postmaster-General.

That had been preceded about a month previously by a personal letter substantially taking the same ground.

The other letter is dated December 5, 1882, and is addressed to Hon. Benjamin Harris Brewster, Attorney-General. It is as follows:

WASHINGTON, *December 5, 1882.*

DEAR SIR: I beg to acknowledge the receipt of your favor 30th ult., transmitting a letter of the Postmaster-General, inclosing a report from the Second Assistant Postmaster-General, with reference to the arbitrations arranged of the claims on the Salisburys and their dependents and on Parker and others.

The Postmaster-General inquires as to the legality of the arbitration proposed, and suggests whether, if there is doubt of the power to enforce any award that might be made, it would not be well to abandon the arbitrations.

I do not suppose that you desire me to go into a discussion of the legal questions involved. The circumstances under which the agreements were entered into are known to you. My own personal opinion is that they are valid, and that any awards can be enforced either by direct proceedings upon them or by using them as evidence.

But whether this is so or not I should regard any failure to proceed by the Government as a fatal mistake, casting discredit upon the Government's case and reflecting upon its management. Indeed, I have been astonished at the hesitation manifested in proceeding.

Let me state the case. An agreement by arbitration has been entered into. It gives to the Government great advantages. There are three arbitrators, of whom two were understood to be and are biased in favor of the Government, and were selected with that understanding. They act by a majority. They act upon evidence satisfactory to them, uncontrolled by strict legal rules, though, of course, in procedure and otherwise they are bound to act fairly and justly. Moreover, they act here, instead of requiring the several cases to be submitted to civil tribunals in distant and scattered territories, among communities alike only in one respect—in the probability that public sentiment would be against the Government. Again, by the agreements, persons who are pecuniarily responsible agree to be accountable for their representatives, their "dummies," who are irresponsible, and as to whom the Government could not probably in court establish the responsibility of their principals.

Now, with such agreements in existence, with no suggestions from the other side that they do not propose to be bound by and to carry out the agreements, it is suggested that the Government, under a doubt as to the ability to enforce them, should withdraw. It seems to me, on the contrary, that the clear policy of the Government should be to proceed promptly with the arbitrations; to assume that the other side propose to act in good faith. If in the course of the proceedings it becomes, for instance, desirous to have a bond from the defendants, to ask it. If it should be properly asked and should be refused, it might then present a different question, though I think not. There is nothing to indicate that the defendants will not in good faith abide the result. I believe they will do so, for it is their manifest interest to do so. If they should refuse there is still power to resort to other proceedings in the courts, which, when the agreements were made, the defendants were anxious to avert.

Your obedient servant,

GEORGE BLISS,
Special Assistant Attorney.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

In connection with what I said about the proceedings against the Salisburys and others, I will state that on the 4th of November, 1882, Mr. Brewster addressed a letter to each of the counsel with reference to what had been done, and as to what should be done in the cases against the Parkers and others—what was known as the Salisbury combination. On the 6th of November I wrote the following reply, addressed to Mr. Brewster:

NOVEMBER 6, 1882.

DEAR SIR: I have your letter of November 4 as to the star-route cases against the persons other than those already indicted.

In reply I have to say that last spring I selected, with a great deal of care, and after a great deal of labor, what appeared to be the strongest cases against what is known as the Salisbury combination and against the Parkers. At large expense I brought numerous witnesses to Washington, and placed them before the same grand jury which indicted Dorsey, Brady, Price, and others. While as to one case we were obliged to admit that my evidence failed, I thought that I was entitled to several indictments against the Salisburys, and to one against the Parkers. But the grand jury ignored the bills, some of which Mr. Ker had substantially prepared. I thought the grand jury made a mistake, and still think so. At the same time the result of the long trial served to convince me that if the grand jury had found bills, a conviction could not have been obtained on evidence in possession of the Government, though at the same time I cannot resist the feeling that if we could get at the real facts in these cases, we shall be able to make quite as strong a case as we have against the Dorseys and their associates.

One advantage we have had in the Dorsey case which is wanting in that of the Salisburys. The Dorseys so treated all their subordinates and subcontractors as to dissatisfy them, and to make them willing to aid the Government. The Salisburys on the other hand, so far as I have found, satisfied and attached to them their subordinates. Moreover, as a general rule the Salisburys did their own work, and had no subcontractors. The Salisburys were mail contractors, the Dorseys speculators in mail contracts. I know, therefore, of no cases against the Salisburys which I should feel justified in presenting to a grand jury, or in which, if indictments were obtained, we could hope for a conviction. I ought to add that in the Salisburys cases the files of the Post-Office Department are much more meager than in the case of the Dorseys, so meager, indeed, as at times to have raised a suspicion in my mind that papers had been removed. Yet, I know of no evidence of this.

As to the Parkers, I have never been able to resist the conviction that if the Las Vegas route were gone over carefully and thoroughly by persons who understood the business, evidence would be found to justify indictment and secure conviction.

The Post-Office authorities went only partially, cursorily, over it. The route was broken up by advancing railroads, and witnesses scattered. This was one of the routes I put witnesses before the grand jury on. One of them failed me, while others could not be found.

As to the other general combinations, that of Barlow, Sanderson & Co., of Kerens, and others, while I found plenty of facts to excite suspicion, I found nothing that would, in my judgment, secure indictment and conviction. I say this after going through all the papers relating to routes into which there was any reason to excite suspicion—apart from the general rottenness of the expedited routes—or as to which the Post-Office authorities had made any special examination. In other words, I examined all the evidence that I could find, and such was the conclusion I came to.

I think, however, that as to civil prosecutions the situation is somewhat different. I think there is evidence on which the Government could fairly claim a recovery as for moneys received for work not done, expeditions not performed, trips not made. But the evidence of this nature needs to be worked up with care and labor, and on the routes. On four of the cases against the Salisburys which I placed before the grand jury last winter, and on one against the Parkers, the evidence was brought together. When the grand jury failed to indict, I arranged, as you know, with the concurrence of Mr. Merrick, an arbitration by which the claims of the Government on those routes were referred to Mr. Elmer, the Second Assistant Postmaster-General; Col. Robert G. Ingersoll, the counsel of the contractors, and myself. Authority was given to act by a majority, to take and act on such evidence as they chose, and generally the terms secured to me to give the Government many advantages over an ordinary civil suit. A right was reserved to me to designate some one to act in my place, and the same right was reserved to Colonel Ingersoll. Nothing has been done under these arbitrations, for until the middle of September Colonel Ingersoll and myself were busy, as you know, in the Dorsey-Brady trial. After that came the necessity of some recreation. Some weeks since, however, I transmitted the papers to Mr.

Elmer, with a suggestion that a meeting of the arbitrators should be called and the work—which ought not to be long—commenced.

At the same time I suggested that I proposed to substitute in my place as arbitrator Mr. Lyman, chief clerk to Second Assistant Postmaster-General, who is thoroughly honest and thoroughly in earnest.

I made these suggestions, because I did not see how I could get the time to attend properly to the matter, and because that if I had the time I must charge the Government largely for my services, and I thought that money could be saved.

I subsequently visited Washington, chiefly on this business, but Mr. Elmer was absent, and I accomplished nothing. I have had no answer to my letter.

If public expectation is to be met by further prosecutions, civil or criminal, there must be further and detailed, accurate, and local investigation. Whether this should be made by the Department of Justice or by the Post-Office Department, I do not know. All local investigation has heretofore been made by the latter, and very well done.

I expect to be in Washington in a few days, and will talk with you on the matters.

Your obedient servant,

GEORGE BLISS.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

The arrangement I made for arbitration does not bar criminal proceedings against the parties, though as to the specific routes it may not go on pending the arbitration. If it does, it terminates the arbitration.

On the receipt of that letter, which was transmitted to the Post-Office Department, that Department commenced a series of investigations, one of which I think I referred to yesterday, in connection with the Venita and Las Vegas route, and which investigation resulted in making a very complete case, as I think, upon that route, for certain civil proceedings.

I will now proceed with my answer to the question addressed to me yesterday, relative to what I did in these star-route cases. After the first indictment against Dorsey was filed, it appeared that two of the defendants, Mr. Rerdell and Mr. Sanderson, had been designated only by the initials of their first names; and there had been omitted the additional clause which, if it had been inserted, I suppose would have made the indictments unquestionably good. I refer to the allegation that "the first names were to the jurors unknown." The indictments were attacked for the reasons stated, and of course it was the business of counsel for the prosecution to say what they could to sustain them. They were not sustained, however—that is, as far as Rerdell was concerned. I think Sanderson stood by awaiting the result in the Rerdell case. When this objection to the indictment was sustained we were presented with the question as to whether we should go on with the indictment as it then was, with the remaining defendants, and try them, leaving Rerdell out and Sanderson practically out, or whether we should procure a new indictment. Fortunately, we found that we could pursue the latter course without additional expense to the Government and without any delay. The witnesses had been before the grand jury, and as there could be no trial for two or three months, they had returned to their homes. They had been, or were to be, subpoenaed for the trial. At all events, they were subpoenaed. We brought them on a little in advance of the time for the trial, in order that they might go again before the grand jury, and thus enable us to procure a new indictment. Upon their testimony a new indictment was found; the error in the name of Mr. Rerdell was corrected; Mr. Sanderson's name was omitted altogether. That fact has been made the subject of some comment; in fact, has been made the subject of somewhat dirty insinuations before this committee. I have to say as to that, that the condition of things was this: The route with which Sanderson was connected, which was included in the original indictment, was the route from Saguache to Bar-

num, in Colorado. It had been let to Miner. It was a route which the inspector's report and the affidavit made by Sanderson seemed to cast considerable suspicion upon, and which had the appearance of being a fraudulent transaction. It certainly resulted in taking from the Government a good deal more money by the process of expedition than it ought to have paid. And therefore, in the original indictment in regard to that route, Mr. Sanderson was put in as a defendant. When the question came up with regard to the finding of the new indictment, we had time then to examine a little more carefully than we had done before into the condition of things. We determined, if possible, not to make any more mistakes; we went over, with great care, the whole case. Mr. Merrick, Mr. Ker, and myself had numerous consultations in regard to it. There was at one time a suggestion, for instance, that Vaile might be left out of the indictment. The result of an investigation on that point convinced us that Vaile was concerned very much more deeply in the business than we had supposed at first.

Rerdell's correct name was found and inserted. As to Sanderson, we found on examination that the only route with which he was connected that was included in the indictment was the one I have specified; that that had been let to Miner at the bidding; that Sanderson had taken it off of Miner's hands at the full amount. There was not the ordinary case of a subcontract, leaving a profit in the hands of the original party. We then found, by going to the post-office records, that every dollar of the money that had been paid out upon that route had been paid to Sanderson; that no money had gone to any of the other defendants. We were brought face to face, therefore, with this question which was raised in our minds, and which, in different forms, was argued with great persistency during the trial by the defendants, and presented some difficulties. That question was: whether we were not bound in an indictment, under the conspiracy statute of the United States, to prove that all of the defendants had conspired together as to all of the routes which were included in the indictment; and as to whether we would say that Dorsey and Brady conspired as to route A, and that Sanderson and Brady conspired as to route B, &c. We saw that if we made a mistake in that respect, the result might be that by improperly including Sanderson in the indictment we not only put in a party who ought not to be included in that particular indictment, but run the risk of invalidating our whole indictment as to the other parties. We could not find any evidence whatever that Mr. Sanderson had any connection with these parties in any other way with reference to that particular route, other than by having simply bought out Mr. Miner at the full amount. We further found on examination, that that particular region of Colorado was a region which, in the mail service, had been chiefly given up to Sanderson; that he had taken possession of it; developed it; even built many of the roads; run his mail coaches for passengers, &c. The combination was Barlow, Sanderson & Co. We found at the letting that this particular route had been let to Miner, right in the midst of Sanderson's territory. We thought we could see a good reason why Sanderson should come in and buy Miner out, and why he wanted to keep him out of what was known as his territory. For these reasons, not out of any consideration for Mr. Sanderson, but out of consideration chiefly for the other defendants, and for the value of our indictments against other defendants, we felt bound to omit Mr. Sanderson from that indictment. I do not know that I am any more responsible for that than anybody else, except that the detail of the testimony—the detail of the work of all that sort of

thing—was imposed upon me. Mr. Ker was responsible only for the drafting of the indictments, with which I had nothing to do. Mr. Merrick was more of a general counsel. Therefore, I probably am more responsible for that than anybody else, and I am willing to accept the entire responsibility of the omission of Mr. Sanderson's name.

By the CHAIRMAN :

Q. Was the question of whether he should be included in the second indictment a matter of consultation between all of the counsel?—A. Yes, sir; it was a matter of consultation between all of the counsel, and the result was arrived at with the assent of all. It was a matter about which we were all perfectly clear; there was really no discussion in regard to it; the question as to the relation of Vaile to the matter, we did have some discussion about.

I desire to say in connection with the matter of the omission of Sanderson's name from the indictment, meeting for once and for all the dirty insinuations which have been thrown out by gentlemen who were at one time counsel in the case, as well as by the defendants, that not only did Sanderson never offer or suggest the payment of any money to me, or give any valuable consideration, or do anything directly or indirectly looking towards consideration, but that no human being from the beginning to the end of these cases has ever directly or indirectly suggested to me the obtaining in any manner of any emolument, or any advantage in any way arising out of these cases. I want to make the denial as broad as any language can make it, and to meet any insinuations that may be made. I do not propose, unless the committee call me on cross-examination, to further say anything more upon that subject.

Let me say in this connection, that when the Dorsey matter was being gotten ready for indictment I went to the Attorney-General, and said to him that I did not claim to be a criminal lawyer; that I had not had a great deal of experience in drafting indictments, and that I did not feel myself competent to draft such an indictment as would be required in these cases. Moreover, that even if I were competent, that the labor would be very great, and that my time was needed for other portions of the case. I told him that I thought he ought to employ some one else. I told him farther, that I thought there was sufficient responsibility on me already, and that the responsibility which would arise from drafting the indictment, ought to be placed somewhere else. Mr. Brewster selected Mr. Ker, of Philadelphia, whom he stated had had very large experience, and had great knack and ability in these cases. Mr. Ker drew the indictment. It was a very lengthy, very elaborate one, and it stood all the racket of all the attacks and all the objections of all of the counsel, all the way through. No defect whatever was discovered in it; it was sustained throughout. I regard it as a great achievement in that respect.

By Mr. STEWART :

Q. Except in the first instance, in regard to the omission of the Christian name?—A. Yes, sir; with regard to the Rerdell indictment, the omission of the Christian name was an error, and, perhaps, carelessness.

Q. Then, this "supposed expert" had some knowledge of the business which he undertook?—A. I think he had very great knowledge. He had more knowledge than the gentleman who describes him as a "supposed expert" was competent even to judge of.

Now, let me say a word in regard to the indictment found against

Dorsey. We reached a trial, I think, in May. There were all sorts of preliminary struggles. The defendants attacked everything; in every way, everywhere, and everybody. Demurrers, motions to quash; every description of motion that criminal pleading permits, and some things which it does not permit, were resorted to. As, I say, however, we finally got to trial. The trial continued along down into September. During that trial we were kept here under a continual strain. We were occupied in court from 10 until 3 o'clock; then it was my practice to go to the Post-Office Department and remain there until 6; go then to my hotel and get my dinner, and then have the witnesses who were to be examined the next morning come to my room. It was rarely that I ever got rid of the witnesses, and got ready to retire before 2 o'clock in the morning. It was the most exhaustive and confining work that I ever had imposed upon me. It had, necessarily, to devolve mostly upon me, as I was the only one familiar with the details, except Mr. Woodward, who had made up the statement, but he did not pretend to be a lawyer, and of course I had to put everything in a legal form. The examination of the witnesses in court also largely fell to me.

As to the conduct of the case in court I desire to say nothing. I would be very glad if the committee, at the proper time, would ask Judge Wylie to appear before them, and give his opinion as to the thoroughness of the preparation of the cases and their management during the trial. I am willing to abide by his judgment in the matter.

The case was prolonged; prolonged far beyond the length of time we expected it would be, and far beyond what we think it ought to have been. Judge Wylie was obviously disposed to give the defendants every possible opportunity to present their case; to present their objections. The result was that during a large portion of the trial questions were argued over and over again. Questions would arise one day, be discussed, and be determined, as it would be thought, and then they would be raised another day, and argument be again had on them. Of course this prolongation of the trial had an injurious effect upon the prosecution, because the jurors' minds necessarily became confused and fatigued. The trial resulted, as you gentlemen well know, in finding some of the little fellows guilty, and a disagreement as to the big ones. This presented, of course, a sort of anomaly, because it was actually and legally impossible that the little fellows could have been guilty, unless the big fellows were also. The verdict was a solecism and an absurdity. The Government could not afford to rest under such a verdict for a moment, and accordingly Mr. Merrick promptly, without my knowledge, for I was called away by sickness, but with my entire concurrence, went into court and moved, in behalf of the Government, to set aside the verdict in its own favor.

We subsequently reached the second trial. That was, as far as I was concerned, much less laborious. We had the testimony of the witnesses who had been examined on the former trial in print; therefore, conferring with them to ascertain what they would testify to, &c., became largely unnecessary, and much more of the labor was enabled to be thrown upon others than myself.

While I was preparing the papers in connection with the first trial, preparing the witnesses for the first trial, I found among the papers a memorandum that Mr. George E. Spencer, who had been Senator from Alabama, and who, I had found, had, in the early stages of the case, taken a great deal of interest in the matter, could give testimony of a very important nature; practically of the payment by Dorsey of money

to Brady; and also testimony of Mr. Dorsey's statement that his clerk had gone back on him; of Mr. Dorsey's subsequent statement that he had recovered his clerk and things were all right.

I am free to say that at that time and under that condition of things, I had no doubt in my own mind that Mr. Spencer had made those statements, but doubted whether they were true. On going to Mr. James, I found that Mr. Spencer had made the statements to him. I found, also, that he had made almost the same identical statements to Mr. Van Wormer, who was Mr. Spencer's personal friend, and who is to-day his personal friend, who, during the proceedings in the matter of the arrest of Mr. Spencer for contempt, wrote him a letter which was used in his behalf, and in which there was great care taken to entirely avoid any statement that Mr. Spencer did not tell him precisely what Mr. James said he told him. I took the occasion to see Mr. Van Wormer, and he informed me that Mr. Spencer did so state. I subsequently saw Mr. Boynton, who was well known in Washington. Not the Mr. Boynton who has been connected with the recent Keifer matter, but another gentleman, a friend of General Garfield. I found that Mr. Spencer had made to him substantially the same statement, though, I believe, not so complete. I feel, however, bound to say that I did not feel certain that Mr. Spencer had not been doing a little blowing. I found myself in this position. If I did not put Mr. Spencer on the stand, or attempt to, with that statement among the papers, I should inevitably be met, and ought to have been met, in the event of the cases going against us, with the statement that I had in my possession the evidence, the statement of a witness who could give absolute and conclusive evidence, and I had failed to call him. I did not hesitate for a moment in subpoenaing Mr. Spencer, and I took a great deal of pains to subpoena him. He came here. He has made his complaint before you that I did not consult with him. I did not, and I did not mean to. I avoided doing so. I avoided doing so for precisely this reason. It would not have made any difference to me whether Mr. Spencer had come to me and told me he could or could not so testify. I could not afford not to put him on the stand with that paper and that information in my possession, because if I did so fail to put him on the stand I should then be exposed, and rightly exposed, to criticism. I did not care to raise any question of veracity with Mr. Spencer; I did not care to have him turn upon me and say, "Why, don't you believe me?" I therefore made up my mind that I would not have any conference with Mr. Spencer as to the case, and I did not.

One evening, while sitting in the Arlington Hotel, Secretary Chandler, who had been my intimate personal friend for more than 25 years, we having been in college together, came in with Mr. Spencer. We sat there with a dozen people, and after awhile Mr. Chandler said that he would like to speak with me alone. We went to one side. Mr. Spencer says we had an interview of two or three hours. I do not think it was half an hour, but that is immaterial. Mr. Chandler said, "Mr. Spencer says you won't talk with him, and he wants to know what there is about this matter; that he wants to go away." I said, "Now, Chandler," though I called him by his first name, as I was in the habit of doing, "here is this condition of things." I then stated the circumstance of the evidence. I said to him, "Now, there it is; I cannot let Spencer go. I do not want to talk to him, because if I do, I shall have to tell him I do not believe him, and I have made up my mind that I am going to put him on the stand. If he denies this statement, why, then, of course we have the right of cross-examination. The court will give it

to us under those circumstances, I think, and we will find out whether the statements are true or false." Mr. Chandler, as the friend of Mr. Spencer, rather tried to urge me out of that position. I said to him, "If you were placed in my position, you would do just the same thing." "Well," he said, "I think I would, but," he added, "I am bound to say I do not know whether Spencer knows these things, or not; whether the statements you say he has made are true, or not. I think Spencer is that sort of a man, that if he knows them, and they will affect a friend, he will say he does not, and therefore you will get nothing out of him." I told him I would have to run that risk, and the conversation ended.

Mr. Spencer left here. When he got to Council Bluffs he wrote back a letter to Mr. Chandler, which Mr. Chandler brought to me. In that letter he said that he had been called away; that he had left here to go to New York, intending to return.

By Mr. STEWART:

Q. Was this pending the trial?—A. Yes, sir.

Q. He was under subpoena?—A. Yes, sir; he had been originally subpoenaed in New York. The fact was that he lived at Osceola, Nev., and I used a post-office inspector. I sent one from Saint Louis out there, expecting to get him. He had left Osceola to go to New York before that, and we thought with some view to concealment. We found that he stopped in Chicago, and then he went to New York. We got him, I think, the morning that he arrived at the Everett House, in New York, through another post-office inspector. He was very indignant at being subpoenaed there. The only conversation I had with him was when he came and expressed his indignation at being subpoenaed there, instead of in Nevada, from which place he claimed he would have been entitled to his mileage. I told him under the State decisions he was entitled to mileage from his home, and I was under the apprehension that he would be under the United States law.

Some time early in July Mr. Spencer went west, and wrote this letter to Mr. Chandler from Council Bluffs or Omaha, saying that he had left Washington, intending to return here. I think he said that. When he got to New York he said he received letters relative to his business which required his departure for Nevada. His mine having been left in charge of an inexperienced man, and there having been developments there, he had to go there, even if he did not stay but two or three days. He said he had to go there; that he wished him, Mr. Chandler, to see me, and to state that if I insisted upon his return that he would return. He stated, however, that he could not give any such testimony as that which it had been stated he could give. I think he used some profanity. At all events, he said this was a very bad Government, and he was sorry that he had ever fought for it. This being the condition of things, having found that he had actually disappeared and was not coming back, I went straight into court and had him called, and secured an attachment against him for contempt. I then, with the concurrence of Mr. Chandler, telegraphed him that he must return; that I had been compelled to issue an attachment for him; that I would take steps to prevent its being served if I learned that he had started to come here; that the time had already so far advanced that I was fearful that he would be too late. I sent the attachment to a post-office inspector at Saint Louis, with directions to start at once, but to keep in communication with me by telegraph, so as to prevent actual service being made unless I telegraphed to that effect. Not getting any information that

Mr. Spencer had started—no dispatch from him—I telegraphed to have service made. It was then found that Mr. Spencer had left Osceola, and we could not find out where he had gone. It turned out that he had taken a carriage and was wandering around in Southern Colorado. He claims innocently. He says he left home the second time to come here, but finally changed his mind, and said if George Bliss wanted him he would have to find him. He went wandering around, as I say. We tried to find him, but could not. When we had closed our case we had not been able to get Mr. Spencer. We applied to the court to be allowed to examine him if he was secured at any time before the whole case closed. The court ruled against the objection made by the defendant to the application, and said he would allow us that privilege. The defendants went on with their case, and closed it rather suddenly and unexpectedly to us. We asked then to be allowed a few days' delay, inasmuch as we had learned, as we thought, where Mr. Spencer was. The court ruled that that application could not be granted, and the case accordingly closed without Mr. Spencer's evidence. In point of fact, we had learned that Mr. Spencer was at Hastings, in Minnesota or Nebraska, and we were subsequently told that the defendants had learned that we knew that fact, and that that led to their closing their evidence somewhat hurriedly. I cannot say that that was true.

In getting ready for the next trial, we started in for Mr. Spencer again. We could not find him. It turned out he was in New York. He says at that time he attended the consecration of a church at which I was present also. I think he did. He concealed himself, however. He received his letters under a disguised name, at a private house, to the care of a clergyman, and we could not find him. We afterwards heard of him as being up at Watertown.

Q. It was an ingenious device?—A. Yes, sir. We afterwards heard of him as being at Watertown, N. Y., and sent the attachment for him as soon as we could. That was in a different district from which the attachment was issued. It was necessary, therefore, to get access to a court and marshal of a different district; because, in that kind of process, we had to use marshals. Before we could get there Mr. Spencer went to Canada. He went over to Toronto. He remained at Toronto for some little time, and went from Toronto to Hamilton and various other places. We watched him; followed him; and among the interesting developments made up there, was the presence there of the immaculate late counsel of the Government, Mr. A. M. Gibson, who was, as reported to me, found in communication with him. Finally, in the dead of winter Mr. Spencer, never coming into the United States again, went to Halifax, and took steamer for Europe. He staid in Europe until he learned, by cable, that the case had so nearly closed that it must inevitably be closed before he could arrive here. Then he started for home and arrived after the case was closed.

Subsequently he was arrested upon an attachment, and we had a litigation here in which Judge Wylie held that the subpoena was a subpoena in improper form; that it was a subpoena used in civil suits, and not in criminal cases. I think that was the purport of it. It is difficult for me to make out quite the length and breadth of the decision. All I have to say about that is that the subpoena I got myself from the clerk of the court. I applied to the clerk for the subpoena, telling the clerk for what purpose I wanted it. I did not give him the name of the witness, but I told him I wanted it for a witness in a criminal case. I received that subpoena, and I used it. I think I was justified in using it.

By the CHAIRMAN:

Q. Who was the clerk?—A. The clerk of the criminal court. It was one of the subordinates. I may say that, if I am not greatly mistaken, the subpoena was in the precise form of the greater portion of the subpoenas, certainly, which were used during both of the trials, and as to which no question was ever raised. The point with regard to which it was held not to be good was not argued before Judge Wylie at all. It was a point raised by himself afterwards. I do not mean to question the correctness of Judge Wylie's decision in any manner. I simply say that that was the condition of things.

As I have said, I originally had very great doubt as to whether Mr. Spencer could testify to any such thing as appeared on the record. His subsequent course; the careful way in which he avoided being given an opportunity to state it was not so, where he could be subject to cross-examination and penalties, led me to think that his statement was correct, and he could have given such testimony. I understand that he has said here now, that he could not. Mr. James stated here the other day that he did tell him so, and if the committee see proper to call Van Wormer, and the other witnesses, they can get further evidence of his statements to that effect.

Q. Do you know Mr. Boynton's address?—A. He did live in New York, next door to me. My number was 54 West Thirty-ninth street, and his number was, I think, 45. I cannot say that he lives there now.

Q. Did Mr. Boynton inform you that Mr. Spencer had told him?—A. Yes, sir. My recollection as to what Boynton said is not so clear. Mr. Boynton was brought to my house in New York by Mr. James one afternoon, and introduced to me. He went over what was said by Mr. Spencer, and my recollection is it agreed with what Mr. James had said, though I do not think we went over the whole in detail. I also had a talk with Mr. Van Wormer, who is a clerk at present in Mr. James' bank, and who was then chief clerk of the Post-Office Department.

Q. Did Mr. Van Wormer talk with you generally on the subject?—A. Yes, sir. I think he went over the whole ground. He was a little unwilling to talk, but I got the information out of him by plying him with questions; telling him what I already knew, saying so and so. He felt he was under such relations to Mr. Spencer that he ought not to volunteer anything; that he ought not to give me any additional information to that which I already had.

Q. Did Mr. Van Wormer state that Mr. Spencer had told him that he was in the room when Dorsey paid this money?—A. Yes, sir; Mr. Van Wormer substantially made the same statement that Mr. James made in his testimony before you here.

Q. You were so well satisfied of the truth of those statements that Mr. Spencer made, that you, yourself, made an affidavit in court to that effect?—A. I made an affidavit in the proceedings. I think that is the general purport of my affidavit. I did not make an affidavit that I knew of my own knowledge that he had made these statements, but that I had been informed that he had so stated, and gave the names of my informants.

Q. That Mr. Spencer had made these statements?—A. Yes, sir; there was no question, I think, raised that the preliminary affidavit for attachment was sufficient.

Q. Is it your opinion, from all that occurred, that Spencer was evading the process of the court?—A. Judge Wylie, on the proceeding in contempt before him, announced distinctly that there could not be any question that Mr. Spencer was evading the process of the court.

Q. But, technically, he was not in contempt?—A. But technically he was not in contempt, because the subpoena did not state to him that he was not to depart without the order of the court or the district attorney. I think there was some other thing of that sort in it. It required his attendance on a defined day. And then Judge Wylie was troubled with another question arising as to the mode of service of a subpoena issued in this District. The subpoena was served in New York. Under the rule in New York, established by the State law, and established by the decisions of the United States courts there, anybody may serve a subpoena. Judge Wylie held the rule regarding the service of a subpoena must be governed by the law of this District. I think his ruling was that a subpoena must be served by the marshal. He left undefined—at least, in a way I was not able to make it out—the question as to exactly how it should be served where the subpoena was from this District to be served out of the District. Clearly, the marshal of this District could not serve a subpoena in New York. He had no such authority. Exactly how it was to be arranged that the marshal of the other district was to serve the subpoena, and that in that district the rule applicable to the United States courts in that district was not to apply as to the mode of service, I am not sure in regard to. If the committee desires a copy of Judge Wylie's opinion, I happen to have it here, and I will furnish it to them.

I desire to state in regard to Mr. Spencer, that it was only incidentally that I knew of his connection with the early stages of the case; but when I did learn of it, I was disposed to get into communication with him. I very soon found, however, such a condition of things as convinced me the course pursued with regard to Mr. Spencer was the proper one. Mr. Spencer's relations and conduct in connection with certain things satisfied me that however earnest he may have been originally in the prosecution of the cases against these defendants, that his interest had now entirely passed to the other side, and that he was in their interest, and not in the interest of the Government; and that that condition of things commenced as early as December, 1881.

Q. After that time, you think——A. [Interposing.] I do not remember that I saw him at all.

Q. He did not render any service to the Government after that?—A. No, sir; not after I came into the cases. And let me say here, as covering over what I ought to have said the other day, that after I came to Washington, the middle of September, while Mr. A. M. Gibson was in and out of the office occasionally, so far as I know, except in writing that report which eulogized himself and his labors, and appropriated to himself labors which I was satisfied were largely those of other people, I am not aware that he did any work whatever for the Government. As to that report, he first addressed it to the Postmaster-General. Mr. Woodward objected to its being so addressed on the ground that he was not an officer of the Department, and he was claiming to have done things which Mr. Woodward had done. Mr. James took that position very decidedly, and then he undertook to send the report to the Department of Justice by Mr. Phillips, who was then Acting Attorney-General, and they had some correspondence, Mr. Phillips, Mr. Milliken, then chief clerk, writing letters in which they substantially declined to receive the report. At that stage, I saw trouble brewing. I do not know whether I sent for Mr. Gibson, or whether Mr. Gibson came to see me. He came, however, to my room at the Arlington Hotel. I think he made two visits. He was there several hours. We took his report, and went over it, and with his entire concurrence I suggested to him

that this matter and that matter ought to go out, and that and this ought to be changed. He consented to the parts going out that I suggested to go out, and accepted the changes that I named. He then rewrote that portion of the report, and sent it to the Department of Justice. It was received and transmitted by that Department to the Postmaster-General, and by the Postmaster-General published as an appendix to his own annual report. Mr. Gibson at that time professed a great deal of gratitude to me for the course I had taken with reference to it.

Since I have referred to Mr. Gibson, let me say a word further, and then drop that subject. When we got to the point of preparing the other indictments against the other combinations, the question came up as to who should be indicted. Among other routes in them was the San Antonio and Corpus Christi route, upon which Mr. Price was the contractor. We always felt, from the knowledge we acquired, that Mr. Price was the man out of whom we were most likely, if we could get hold of him, to get valuable information as bearing upon the general subject; and let me say here, that my theory in all these cases was that the officers were chiefly the guilty men, and that therefore I was at any time ready to recommend the granting of immunity to every contractor or anybody else who would give evidence which was conclusive as against any of the public officers. We procured the indictment on the Corpus Christi and San Antonio route. The evidence with regard to that is substantially contained in the letter transmitting the reports of the special agents, on page 146. The committee will find that it is the case of an expedited route; expedited upon affidavits which were subsequently shown by these inquiries not to contain the facts; and that the Government, therefore, was made to pay a good deal of money that it ought not to have paid. We took some special pains with that route, because we regarded Price as a valuable man to catch, and we sent an officer specially out West to find a Mr. Ellis, whom the post-office inspectors had failed to find, and whom they reported had gone out into the country somewhere, and they did not know where. We sent Inspector Foster there, and after a great deal of traveling around among the wilds of Texas, he finally found Mr. Ellis, and he was brought here as a witness. On his evidence an indictment was found as against Mr. Price, Mr. Brady being included. At that time there was not available to the Government a particle of evidence of payment of money by Price to Brady to support allegations of that kind.

Long subsequent to that Price indicated to Mr. Merrick a willingness to give evidence in favor of the Government. Then it was that it became possible to go into further evidence in connection with that case. I will have something directly to say about that. When we were talking up these cases and looking to indicting the other combinations; when we were seeking to indict the Saulsburys and failed; when I was going through the matter, we struck a route known as the Black Canyon route, running from Phoenix to Prescott. I brought the papers with me from my home, but I have left them at the Post-Office Department. I will see that the committee has some statement upon that subject. But, in general terms, it was a route where the original contract was \$682. It had been expedited until the contractor was getting \$32,000. It had been expedited upon an affidavit which presented a physical impossibility. As a test of the amount to be paid was a statement contained in an affidavit as to the number of men and carriers, the Government could be defrauded by understating the number of men and carriers who were employed at the original compensation, or by overstating the number of men and carriers who would necessarily have to be employed in

view of the increased speed. The Government could be defrauded in either way, or in both ways. The affidavit showed, as I recollect it, that there was a single carrier employed, yet he would have to travel twenty-four hours a day for eight days in every week in order to get over the route; the mail could not be carried by a single carrier on the schedule time unless the carrier was going eight days in every week, and traveling every hour of the eight days.

Q. Eight days in the week?—A. Yes, sir. There is a mathematical statement, clear; there is not any escape from it. Moreover, in point of fact, the papers showed, I think, the mail had really been carried before the expedition within a time as short, if not shorter, than that to which it was reduced by the expedition, and for which the Government paid an increase from \$682 to \$32,000, this being paid because it was a stage route for the accommodation of passengers. There were other things connected with it. It is sufficient to say that on the papers it was a route which presented the appearance to me of being a fraud, as it evidently appears to those who at present administer the affairs of the Post-Office Department, for that Department has stopped \$25,000 of the pay of that contractor, on the ground that it was a fraud. The papers indicated that it was one of the very worst cases of all.

Q. Who were the contractors?—A. That was one of the Kerns combinations; a man named Griffith, who had been driver or superintendent of Kerns, was the contractor. It is proper to state that between the time the contract was made and the time we were investigating it (though not between the time the contract was made and the time the orders were made, for one of the orders for expedition was made even before the service was commenced) the business had developed. They got the contract at a public bidding at one price, and then before they entered upon the contract, by some secret arrangement with the Post-Office Department, they got it increased from \$682 to \$32,000, with no competition. It is right to say that at the time we were investigating the subject, business had developed there; the route had become a much more important one, and therefore the increased service was in a great measure justified, though I think it was not justified at the time it was made. Moreover, there were two routes; one by way of Wickenburg, and this one. However that may be, the route was one, according to my view, which disclosed a very bad state of things. In December, 1881, when we got through the Dorsey business, Mr. Woodward, as I have stated to you, was always a little ahead of us in making the preliminary investigations upon the routes, and, to my surprise, he brought me a report upon the Phoenix and Prescott route, in which it was stated that "True, there were some things that looked a little suspicious; looked as if there were some indications of fraud, but there was not fraud, and, as a general thing, really the route ought not to be interfered with." I inquired how that report came to be made, and I found it was made because the post-office authorities, the Second Assistant Postmaster-General's office, were disposed and had been disposed previously to stop the pay of the contractor, and there had been some intervention. The man wanted his pay, of course, and there had been some influence brought, and this report had been made. That report was signed "A. M. Gibson, special counsel for the Government." From the time that report struck my eye, or my eye struck that—

By Mr. MILLIKEN:

Q. Who do you say made that report?—A. Mr. Gibson made the report, but Mr. Woodward brought it to me. It had been placed on

file. I think Mr. Woodward brought it to me some time in December. There had never a word been said to Mr. Woodward that that report had been made, nor had anything been said to me. By reason of that report, they got at least a quarter's pay. Mr. Woodward was as much astonished at finding this report on file as I was.

I was going to say that from the time my eyes struck that report, whatever remaining vestiges of belief I had that Mr. Gibson was honest and sincere in his efforts on behalf of the Government, were all dissipated.

By Mr. STEWART:

Q. What is the date of that?—A. It must have been some time in the latter part of December, 1881, or first of January, 1882.

By the CHAIRMAN:

Q. Did you say you would furnish the committee with a copy of the report?—A. Yes, sir; I have a copy.

Q. Has it been transmitted to either house of Congress?—A. I do not know.

By Mr. HEMPHILL:

Q. Mr. Woodward made a general report in which he embraced this report of Gibson?—A. No, sir. Mr. Woodward, in going through the post-office files for the purpose of examining the case, took up a great bundle of papers, and on looking over them he found this report of Gibson. He then brought it down and showed it to me. We then made inquiries as to how it came to be made.

Very soon after that we thought it behooved us to protect ourselves, and we concluded the best thing to do would be to change the combination of the safe in the office in which the papers were; and we therefore had it done.

Q. As against whom?—A. Against Mr. Gibson, and Mr. Finley, a boy who had been acting as clerk for Mr. Gibson. I do not think Colonel Cook ever had the combination. Those two, with Mr. Woodward, and some other person in the office, had the combination. Mr. Woodward thinks he originated the idea of a change of the combination, but I have an impression that it was my suggestion. At all events, it was done with the concurrence of both of us. We sent for the proper person, and had the combination changed.

Q. Who has had the combination since that time?—A. I think it was arranged that Mr. Woodward alone should have the combination, and I think when Mr. Woodward had occasion to go away, then it was given to me.

By Mr. FYAN:

Q. Whom did you want to prevent getting into the safe?—A. We wanted to preclude anybody from going into it except Mr. Woodward. I wanted to preclude Mr. Gibson, if you wish me to say so. I will remark right here that after the change in the combination no paper of ours, no evidence of ours, got out which we could not trace and show had gone out before that combination was changed. Immediately after the change in the combination, Mr. Gibson came to the office one day and tried to get into the safe. Finding the combination had been changed, he walked out of the office, and I do not think he ever came in again.

Q. Do you mean to convey the idea that before that time information had gotten out?—A. I mean to convey the idea that I had no question

in my mind that Mr. Gibson and Cook had in their possession our evidence, and that some time before the trial of the Dorsey case portions of that evidence were given to the defendants. In an examination of the witnesses on the trial of the Dorsey case, questions were asked which never could have been asked except on information obtained from our papers, and which papers had never gone to anybody, had never been accessible to anybody that I know of, except Mr. Gibson and Mr. Cook.

Q. Your belief, then, was that Gibson and Cook were selling you out to the other side?—A. Yes, sir; and I have no hesitation, if you desire to know why I think so, in telling you. On the second trial of Dorsey, I subpœnaed James W. Bosler. Mr. Bosler I had known for two or three years. Before the second trial had commenced, Mr. Bosler came to me and said, “I want to know if you are going to indict me.”

By the CHAIRMAN:

Q. J. W. Bosler, now deceased?—A. Yes, sir. He said to me, “I want to know if you are going to indict me.” I said, “Bosler, no; though I think you have been distributing this stolen money.” He said to me, “That is a little sharp.” I said, “I mean this: you advanced money to Dorsey upon assignments of contracts. I have not any evidence that you have done anything that subjects you to the criminal law. I think, however, you were instrumental in securing the arrangement by which Rerdell, after he had told his story to the Government, concluded to go back upon the Government.” He protested that that was not so. I then repeated to him in a subsequent part of the conversation that I had seen no evidence on which I thought he could be indicted. I said to him, “You are not going to run away, and I will, therefore, say to you without any hesitation, ‘possess your soul in patience.’” I added, “I will not tell you that I am going to indict you at any time. I will say to you, however, that if ever I change my mind as to your relations with this case, and find that you do come within the terms of the law, I will inform you that I have changed my mind.” He said he would glad to know it if I did so, and thanked me. I saw him at various times as we went along with the cases.

During the preparation for the second trial, and while looking for all the additional evidence that we could get, I made up my mind that it would be very desirable to have Bosler's books. He kept the accounts of this combination. Among other things claimed by the combination was that it did not make any money. I thought I would like to see how that was. I sent to Carlisle, and had Mr. Bosler subpœnaed. He came on at once to see me, and begged not to be examined. I said, “I will have to examine you.” He said, “You do not believe me guilty?” I said, “No; I do not.” He said, “Anybody who goes upon the stand who has taken assignments of contracts and carried them out is going to be more or less smirched all over the country; people will make no distinction and my character will be blackened; I do not think you ought to put me in such a position.” He came to see me two or three times about it. Finally I told him that I wanted to get at the books. He at first said there were no regular books kept, but finally admitted that there were books in which his other accounts were kept, in which certain entries were made relating to that business. I told him if he did not furnish the books so that I might inspect them privately I would put him on the stand and call upon him then to produce them. He said his books contained a great many other things that he did not want to have get out. I told him we did not have any right to examine any-

thing but the particular pages of the books which related to this matter, and the court would not permit us to do so, even if we were disposed to attempt it. He was very angry at my efforts to get him to go upon the stand, and said he had accounts of some political contributions that he thought the Democrats might like to get access to.

By Mr. MILLIKEN:

Q. Access to the money, or to the fact that contributions were made?
—A. I think he had in his mind the question of access to the fact; I do not suppose anybody wanted access to the money.

By the CHAIRMAN:

Q. Did he object to Mr. Merrick seeing the papers?—A. No, sir; I do not think he did. He said he did not want this exposure made, and finally it was agreed that I should examine his books in the presence of a clerk of his. I then went to Mr. Merrick to see whether I had better agree to this arrangement.

By Mr. FYAN:

Q. Who was the clerk?—A. I do not remember his name. It will be very easy to ascertain. I say "clerk"; it was somebody he had there. I told him myself that he had better have somebody there. This arrangement was entered into with the consent of Mr. Merrick. Before that examination was made, however, the fact developed itself that it would be necessary to put Mr. Bosler on the stand to prove the receipt, or the non-receipt of certain letters for the purpose of admitting secondary evidence upon that subject. That led to a delay, and the thing was off. I again subpoenaed him, fearing that the first subpoena, owing to the negotiations being carried on after its issuance, might not hold good. I therefore had him again subpoenaed. The result was that he brought his books from Carlisle. The first time he brought them, he did not bring the stubs of his check books. I went to his room, and went over his books. His accounts of his receipts and disbursements of the combination were kept in a book not as large as an ordinary journal, or ledger, rather—a thin book. There were various things in it. The entries had been made from time to time along apparently, and then at the end there had been a good many bunched. Those books can be gotten, if the committee desires them. At least I have been told they are still in the possession of Mr. Bosler's estate. Down at the end of the page were some entries that were written nearer together than the lines. Then there had been a settlement with Mr. Dorsey. That settlement had taken place within two or three months of that time, and it had resulted, I think, in showing a balance of \$10,000 or \$12,000 profit up to that time. I looked over the entries, and I found an entry of \$2,500 paid to A. M. Gibson. I asked Mr. Bosler what that was. Bosler declared that he had not promised to explain anything. I had reserved all the while the right to put him on the stand if the examination was not satisfactory. I said, "Very well, then; if you are not disposed to explain I will have to put you on the stand." He then said that was money. I think he said he paid that in two items to Mr. Gibson. I think he said he paid it himself. I asked him what he paid it for. His reply was, "You know." I said, "I do not know, except I know you are not one of those men who pay something for nothing." I asked him again; he said, "You know." Then I persisted. I said, "What did you pay that money for?" He said, "You know." I said, "What was it for?" He said, "I paid it for information, you know."

I said, "A. M. Gibson had been Government counsel, and you paid it to him for information?" He said, "Yes."

By Mr. FYAN:

Q. What was the date of that payment?—A. My recollection is that he said it was after Gibson ceased to be counsel for the Government. I think to those closing items there was no date on the book. They had been put into the book at the time of the settlement between him and Dorsey. I think he told me they were paid in two items, and in that preceding summer. That is my recollection, but I may be wrong about it.

By Mr. MILLIKEN:

Q. Was the information communicated by Gibson communicated while Gibson was in the service of the Government?—A. No, sir; I think not.

By Mr. STEWART:

Q. It was information gained while he was in the service of the Government?—A. Mr. Bosler did not explain that.

Q. Have you any doubt about it?—A. No, sir; none whatever. You will bear in mind that this is charged up to the expenses of the star-route contracts.

By Mr. FYAN:

Q. Then Bosler was paying out the money to Dorsey & Company?—A. The books showed an arrangement under which Bosler, who took up the contracts—I will not say the books showed it—but the arrangement in point of fact was that Mr. Bosler was to make advances at a certain rate of interest, and then the profits were to be divided.

Q. Bosler was a partner?—A. Yes, sir; he became a partner in one sense.

Q. As you understood, these conspirators were paying this money to Gibson?—A. I understood it that those were Dorsey's accounts. This was only Dorsey's interest in the routes which had been separated from Vaile's and others. Dorsey had become assignee of all the interests in the routes except those of Minor and Vaile. He became the owner of J. W. Dorsey's routes; had become the owner of Peck's. Vaile and Minor had taken their interests, and separated them. This was the account with Dorsey, and Dorsey, in the settlement, had paid one-half of the expenses of this amount paid to Gibson, and that was charged in the these star-route cases.

By Mr. FYAN:

Q. Who paid the other half?—A. Bosler paid the other half; in the sense that the aggregate expenses were first to be paid, and then the profits were to be divided.

In the same account further on—I think it was further on, though I am not sure of that—but right on the same page, at all events, there appeared an item of \$4,000 or \$5,000 paid to Cole. I am certain it was not as small an amount as \$2,500.

Q. Do you mean Mr. Cole, the partner of Mr. Cook?—A. Yes sir. His initials were given. I have forgotten what those initials were. I asked Mr. Bosler what that was. He said he did not pay that. That was paid by Dorsey. I told him he knew what it was. He said he did not know, except what Dorsey told him. I asked him what it was. He said, in substance, that when he and Mr. Dorsey were settling, Dorsey brought in some memorandum; and among other memoranda showed me, was this payment to Cole. He said at the time of the settlement he

and Dorsey were not on entirely amicable terms. That is, their relations were a little strained, and he objected to this item.

By the CHAIRMAN:

Q. Who objected?—A. Bosler. He objected to having it put into this account. He was obliged to pay half of these items. Bosler feigned ignorance of who Cole was, and asked Dorsey. Dorsey said, "You know perfectly well who he is. He is Cook's partner." He said he remarked to him, "Why did you pay this amount to him?" He said "No matter, I paid it for the benefit of the interest."

Q. Did Cole perform any legal service?—A. Mr. Cole had been in the first trial as counsel for Rerdell.

Q. Did he appear in court?—A. Yes, sir; as counsel for Rerdell. He appeared on the record, and he got Rerdell to make an affidavit, which the published proceedings show, Judge Wylie denounced as perjury, and charged counsel with having substantially gotten his client to commit perjury; there was a general row. It was an affidavit in which Rerdell undertook to state what occurred in the grand jury room when I was there. It was an effort to attack the right of the assistant district attorney, representing the district attorney, to go before the grand jury. The proceedings are all published.

By Mr. FVAN:

Q. You have told us what Bosler told Dorsey; what did he tell you?—A. I saw Bosler. He told me that he had told that to Dorsey. He did not tell me when this service was rendered. I do not think the books showed when the payment was made to Cole. He did not tell me for what services it was rendered, or anything about it. He simply said Dorsey told him it was for the benefit of the interest. I think Mr. Cole did not appear for Rerdell, or anybody in the case after the first trial. That is my recollection.

By the CHAIRMAN:

Q. When interrupted you were going on to state something about Mr. Gibson not having acted properly as Government counsel.—A. Yes, sir; I was led to believe that his action in regard to the Black Canyon route was not consistent with his position as Government counsel. There had been various things along which led me to think he was not acting as he should act in view of his relation to the Government. There was an earlier matter which I cannot undertake to go into here, which led me to believe that Mr. Spencer and Mr. Gibson, and somebody else were concerned in an improper arrangement as early as the time of Mr. MacVeagh's administration as Attorney-General. There was a claim which it had been confidentially arranged should be referred to Mr. Gibson for investigation. It came out incidentally afterwards that Mr. Spencer had gotten information of that fact, and then, when a change was made in the matter of the reference and it did not go to Mr. Gibson, that fact was treated as preventing the carrying out of similar schemes.

Q. What claim was that?—A. I do not remember in detail what it was; it was some post-office claim.

Q. When was that?—A. I did not hear of it until after I came into the cases, but I think the transaction must have been at or about the time I came into the cases; it may have been a little later.

Q. I do not understand the force of the suggestion.—A. The point is that the matter was to be referred to Mr. Gibson to investigate. It appeared that the matter to be so referred was in the hands of parties out-

side, and when the reference was not made to Mr. Gibson, the parties outside treated it as if the game was all up.

Moreover, I have no hesitation in saying, and I think all of the counsel agreed in that, that they were perfectly satisfied from matters that came to their notice that prior to the second trial there was a combined attempt, in which Mr. Gibson was concerned, to secure the absence of witnesses; of evidence; and that it was not confined to the Dorsey combination, but extended to the Salisburys and to others. I think the committee could be put upon the track of where evidence upon that subject could be gotten.

By Mr. MILLIKEN:

Q. Was that while Gibson was attorney?—A. No, sir; not while he was attorney for the Government. All this happened after he ceased to be attorney for the Government. After he ceased to be attorney for the Government he went regularly into the employ of the other side. I think there is an indication in the testimony here that in one respect he did not serve them faithfully, for it appears here that having, as he said, received pay from Mr. Bosler, he subsequently, as he claims on the appeal of Mr. Merrick, went to work and got Mr. Walsh to testify against these parties. However that may be I do not know.

By the CHAIRMAN:

Q. You stated yesterday that the information that he brought into the cases had been obtained while he was in the employ of Mr. Tilden?—A. I think I can give you the history of that, and yet, of course, I was not present at the transaction. I will give my authority, however.

By Mr. MILLIKEN:

Q. Before you go into that, I should like to have you give any other evidence you have of Mr. Gibson's bad faith. Have you any evidence that Mr. Tilden had found fault with him as being untrue to him?—A. I have no evidence of that kind. If you desire to have me go into what I learned of the Tilden business, and Mr. Gibson's relations to the matter, I will do so.

Mr. MILLIKEN. Yes; let us have it.

The WITNESS. I will state the facts, and you can draw your own inferences as to what Mr. Tilden and others thought. The transaction briefly is this, as I understand it. I will state that Mr. Gibson is, undoubtedly, entitled to the credit in some way or other of having very early arrived at the belief, or knowledge, in a measure, of the star-route frauds. I do not think there is any question about that. Mr. Gibson, of course, wrote a great deal for the New York Sun. At some time or other Mr. Tilden became so far interested in the matter that he furnished money to enable that investigation to be quietly pursued.

By Mr. FYAN:

Q. How do you know that?—A. I am going to tell as I go along. As I stated, Mr. Tilden undertook to furnish money to have the investigation quietly pursued. I will give you my authority for every statement that I make before I get through. That investigation was pursued. At a certain stage of the matter—

Mr. FYAN. As far as I am concerned, I would rather you would state the facts before you state your own conclusions.

The WITNESS. I am not going to state any conclusions; I am going to state the facts. At a certain stage of the matter Mr. Tilden sent Mr. Charles F. McLean to Washington. He is spoken of ordinarily as Mr.

Tilden's adopted son, though I do not think with any correctness. But he is a protégé of Mr. Tilden's. Mr. Tilden made him park commissioner in New York, and put him in various positions of honor and emolument. He is a gentleman and a lawyer, if both of those things can be combined. Mr. McLean came on to Washington to make some inquiry.

By Mr. FYAN:

Q. How do you know that?—A. I will give you my authority for the statement.

Mr. FYAN. Mr. Chairman, if this is mere hearsay—

The WITNESS. What I am going to say is not going to affect Mr. Tilden.

Mr. FYAN. I am not afraid of that.

The WITNESS. Mr. Tilden sent Mr. McLean on to Washington to make inquiry about it. Mr. McLean came on and made inquiries, and went back and reported the investigation as being properly managed, stating that the star-route frauds already existed and that the evidence was being obtained properly.

Mr. McLean was a law partner of Henry E. Knox. Henry E. Knox was the college classmate, and I think the chum, of James A. Garfield. Mr. Tilden was obtaining this information in this way. Now, I am going to state an inference. In the opinion of those familiar with the matter, Mr. Tilden was obtaining this star-route information for the purpose, in the event of his nomination by the Democratic party for the office of President, of making his campaign for the Presidency on that issue, just as he made his campaign for the governorship of New York on the canal frauds; and I am inclined to think he would have done so as successfully as he did in that case. It would have taken two or three electoral commissions to beat him. But Mr. Tilden was not nominated, and he did not give the information to Mr. Hancock, who ran merely on "local issue." After Mr. Garfield was elected, Mr. Knox, having had some knowledge of these facts, and having gathered the information that Mr. Dorsey was concerned in this business, and ascertaining that Mr. Dorsey was on relations with Mr. Garfield of confidence and of influence, late in February he got permission to have these facts, as to Mr. Dorsey's connection with the star-route frauds, communicated to Mr. Garfield. They were communicated to him after Mr. Garfield got here, early in March. I think that is the explanation of the fact, which is undoubtedly a fact, that while Mr. Dorsey had had great influence with Mr. Garfield up to that time, that from that time on, although their relations did not cease; though General Garfield still saw him from that time on, yet every one knows his advice was not taken and his Cabinet was not made up as Mr. Dorsey wanted it.

Let me say a word right here about my feelings towards Mr. Dorsey. It has been stated in evidence here that my prosecution of Mr. Dorsey was influenced by personal feelings. Now, I wish to say, instead of that being true, that, on the contrary, all the relations I had with Mr. Dorsey were pleasant. I never knew him particularly. I had seen him in the Senate, but I never knew him much until after the Presidential election. After the election, I found out that he and I wanted the same gentleman appointed to a Cabinet position, and that fact appearing, he and I were thrown together somewhat. I was pulling my humble wire in the same direction that he was pulling his wire. Our relations were always pleasant. Mr. Dorsey did not have a very high opinion of my political intelligence, but our relations were always pleasant. I at-

tended the famous Dorsey dinner. My political affiliations ran with Mr. Dorsey's.

By the CHAIRMAN:

Q. What member of the Cabinet were you both urging the appointment of?—A. A gentleman who was not put into the Cabinet by Mr. Garfield. I have no hesitation in mentioning who it was; it was Charles J. Folger. I wanted him to go into Mr. Garfield's Cabinet, as the Secretary of the Treasury. Mr. Garfield offered him the Attorney-Generalship, but he declined it.

Q. You spoke about Mr. Tilden?—A. Yes, sir, I spoke about Mr. Tilden; let me follow right along and state some facts as bearing out my statement as to how Mr. Gibson has served him since he went out of the Government employ, and has done his best to make the cases a failure. Suppose two years to have intervened, as the play writers say. The Government is anxious to discover Mr. J. A. Walsh. Mr. Gibson is very indignant because we did not try a certain case, and we cannot try it without him. We set to work in an elaborate inquiry to find out where Walsh is. He is a gentleman who has no home. He gets his letters through his lawyers, and his lawyers have the ability to conceal everything; *they* are faithful to their client. We cannot find him. We find letters for Mr. Walsh are accumulating in the New York post-office. We established a watch to see who calls for the letters. Shortly a person with an order from Mr. Walsh calls and gets the letters. That gentleman is followed by persons who are in ignorance of who he is; followed to the Ebbitt House, and sure enough it is ascertained that that gentleman is Mr. A. M. Gibson. Fifteen days later another gentleman presents an order from Mr. Walsh for the letters, and receives a batch. He is required to state who he is. After some hesitation, he reveals who he is. His name is given as Charles F. McLean. He is followed to his office, and then to his home at the New York Hotel. A week or ten days more, the same thing is repeated by Mr. McLean. I am informed Mr. McLean sat near Mr. Gibson when he was testifying here.

Q. You are desirous now of obtaining the presence of Mr. Walsh?—A. Yes, sir; I have devoted a great deal of time to an endeavor to find Mr. Walsh, but have not succeeded, and for which service, it is understood, by the way, I can get no pay.

Q. Before you leave this subject, let me ask if you can explain the statement you made yesterday with regard to the papers in the Post-Office Department being very meager as to the Salisbury matter?—A. I stated I had no evidence on the subject. My impression is simply gained from this fact, that when you find a route of the Dorseys, a route 150 miles long with perhaps ten or a dozen post-offices on it, extending over four years, you will find a pile of papers very frequently 6 or 8 inches thick, and you will find a vast mass of papers which, if you could take up Mr. Woodward's analysis in the cases, you will see how these little things that are on file there dovetail in with affidavits and information with regard to the routes, and which go very far to make up a complete case. When we came to the Salisbury route, we found nothing there but the merest formal papers. There was not anything that inculpated anybody, except there was a big order of expedition. While it is of course possible that the Salisbury combination did their business in a different way, and they did not put on file such things, yet it is hardly probable, because a great many of those papers, for instance, would not come from the contractors; they would be complaints

from people along the routes, stating the mail was not carried, and all that sort of thing, which would go on file with the papers of the route to which they related. We did not find anything of that kind in the Salisbury cases. The difference was very marked. Mr. Woodward discovered it and said nothing about it, because really I was so very busy that Mr. Woodward and I had very little time to confer except with regard to the more important matters. But when we did get an opportunity to talk over the matter I found the same thing, and yet there was no evidence that anybody had taken any papers at all.

By the CHAIRMAN:

Q. Who had had access to the papers to which you refer?—A. I cannot tell who had access to them. They were under the charge of a clerk. Of course an outsider could not get access, except with the knowledge and permission of the clerk in charge. Any one of the counsel could have gone there and taken possession of them, and done anything with them. At one time, quite early—I do not know but always—there was a system by which one or the other parties concerned for the Government would go up or send up and ask for all the papers on a given route, and down they would go, and sometimes there was not even a receipt given for them; at other times there would be a receipt given for papers on such a route. Of course, with the concurrence of the clerk, anybody might be allowed to see the papers. Nobody could be permitted to handle them, and have them in his possession, except some one of the counsel, or some one of the post-office inspectors detailed for investigation, I presume. I do not know, of my own knowledge, what the rules of the Post Office Department were as to access to those papers.

Q. Will you explain to the committee what evidence you had during the progress of either of the trials, that the defendants were in the possession of any part of the briefs, or information, that was supposed to be exclusively in the possession of the Government counsel?—A. I remember there were various questions asked, from time to time. For instance, there was a particular witness to a period in whose life the post-office inspectors' report referred, as not being very creditable to him, &c. It had turned out that the inspectors' report was, in that respect, erroneous; that as to the particular theme which it was claimed was not to his credit, the inspector had been erroneously informed about. When that witness came on the stand, the counsel asked questions with reference to that particular matter which had been erroneously charged by the post-office inspector, and which question showed very clearly that they had had access to that statement of the Post-Office inspector.

Q. What trial was that?—A. The second trial. There were other things of that sort that I cannot recall at this moment. I know as between Mr. Woodward and myself it was not infrequently the case, as we went out of court at the end of the day one or the other would say, "Those questions they asked show they have had access to our papers."

Q. From whom could they have obtained access to your papers?—A. With reference to that I can only say this to you: Mr. Woodward was making up these statements, which were very elaborate, of a very detailed character, and, although in his presence, I must say very able abstract of the cases, an abstract which any lawyer could use, and a very thorough brief, combining the advantage of having been prepared by a man thoroughly familiar with post-office matters and to which any lawyer might apply the legal rules of evidence. Sometimes Mr. Woodward made mistakes in the bearing of evidence, but those reports used to be written out by him, and certain of them I know copies

were made of and sent to Mr. Cook. There was another copy made which was kept in the office, or the original, I do not know which.

Mr. WOODWARD. The original was kept in the office.

The WITNESS. Very frequently Mr. Woodward would be using his copy, and I would want another, and I did not have it. I do not know of my own knowledge that any of those copies were sent to Mr. Cook; but the record shows that certain of the reports from time to time as made up were sent to Mr. Cook.

On the 7th of March, 1882—I think it was about the time Mr. Cook resigned—and I think, perhaps, actually after he had resigned; the first letter was certainly written before I knew of his resignation. On the 7th of March, 1882, I called upon Mr. Cook for the return of some of those reports.

He replied by letter, which I do not know whether I have or not. On the 17th of March, however, I wrote a reply to him, which is as follows:

WASHINGTON, *March 17, 1882.*

Col. W. A. Cook:

SIR: I judge that I failed yesterday to make myself understood as to the papers that I wanted. Mr. Woodward prepared abstracts of statements appearing on the files, and of the information obtained from other sources as to each of the routes specified in the inclosed list. These abstracts were copied and one copy was, he informs me, furnished to you. I remember to have seen some of them in your possession, and you referred to others. It is these papers that I wanted independently of your retirement from the cases, but now that you have decided to retire you cannot have any use for them.

Your obedient servant,

GEO. BLISS.

He replied that he had not any such papers. Subsequently to that, I stated the matter to the Attorney General, and there was some correspondence between the Attorney-General and myself. He, I think, transmitted my letters, or a copy of them, to Mr. Cook. I thought I had a reference to one of those letters. Colonel Cook replied in the same way, and expressed himself as considerably insulted at my insisting upon it that he had any papers. I do not know at what time some papers were returned by him to the Attorney-General's office. I am informed that he produced a receipt here. I know that at one time, considerably subsequent to this correspondence in the Attorney-General's office, the clerk showed me, in a drawer, some papers which he said had been received within a short time from Colonel Cook. I do not know when that was, and I cannot tell. I am confident that amongst those papers were some of Woodward's reports. I make no concealment of my own belief that when those reports were called for they could not be immediately returned, because it was desired to have copies made of them, and that after copies had been made they came back.

Now, there was a Mrs. Gregg, who we had here as a witness, who was employed by Colonel Cook, and who made copies, as she states, of a large number of papers. She describes them generally, as to what they were. I do not know whether her description corresponds with Woodward's reports or not, but they were papers relating to star-route contracts, affidavits, number of horses, carriers, &c. She was employed by Colonel Cook to copy them, and was told not to let Mr. Woodward or the other counsel know anything about it. She was employed for many days in making these copies. Mrs. Gregg is living at Saint Louis. Her address can be secured if the committee desire to examine her.

By Mr. STEWART:

Q. By whom was she employed?—A. By Colonel Cook. She lived at

that time at Alton, Ill. Her father is quite an old man—Mr. Fisher. He had been a well-known mail contractor. He is very infirm. I saw the daughter at the time she was here. I have not seen her since.

By the CHAIRMAN:

Q. Was that lady employed by any other counsel for the purpose of making copies of papers?—A. She was summoned here as a witness. Mr. Cook summoned her here, and she was paid witness fees by the Government. In fact, she was kept here so long that the witness fees did not pay the expenses, and I had to make some arrangement by which she got something in addition to witness fees, and my recollection is that it resulted in my paying her some sum of money out of my own pocket, which I did not mean to do.

Q. Was she put upon the stand as a witness?—A. No, sir; she was not to be a witness in that case. I do not remember, at this moment, in what case she was intended to be a witness. I think she was used as a witness before the grand jury; that is my impression. She was brought here by Mr. Hinds. He was a former post-office inspector, who acted very largely with Mr. Cook. I have nothing to say against Mr. Hinds, and I want that distinctly understood.

Q. State whether there could have been any necessity, with a view to the efficient prosecution of these cases, for the copies of these papers to have been made by this lady.—A. If I knew what the papers were I could answer that question more definitely. If they were Mr. Woodward's reports, I say, decidedly, no. Not only could there have been no use in it, in that case, but, on the contrary, considerable impropriety in multiplying copies. If they were papers that consisted of our evidence—and Mrs. Gregg's statement seems to show that they were affidavits, or something of that kind—I do not see why any copies at all should have been made.

Q. Was any bill presented by her to the Government for the making of such copies?—A. I think not.

By Mr. MILLIKEN:

Q. Were the copies made before Mr. Cook's services to the Government terminated?—A. Yes, sir.

Q. While he was in the employ of the Government?—A. Yes, sir; that must have been so. Let me say that when the combination of the safe was changed, I then had a careful list of all the papers made; I tried to get things into some kind of systematic shape, and I had a record of everything made up.

Q. How long had that combination been changed before Mr. Gibson's service for the Government expired?—A. That combination must have been changed about the 7th of January. Mr. Woodward thinks it was earlier, but my impression is it was about that time. I know on the 7th of January I wrote a letter to the effect that if Colonel Cook had any of the original papers I wished he would return them. The discovery of the Black Cañon report was made at the end of December, I think, and that really precipitated this thing. Mr. Gibson's employment ceased in February, I think.

As to that, Mr. Gibson says that I did not want him in the cases. He states that I said I did not want him out of the cases, and yet I did want him out. My relation to that matter is substantially this: The Attorney-General consulted me as to the propriety of dismissing Mr. Gibson. He was very much disposed to dismiss him. I said that that would probably create a scandal. I remarked to him that Mr. Gibson would

be of no use when the cases passed out of the realm of investigation into the realm of prosecution, and that they would go out of the former position within a very short time; that I thought he had better wait until we got along to that point, and that then Mr. Gibson could be dropped, his services be dispensed with without any scandal, and possibly without any feeling, though I did not know that. That was my relation to the matter; it happened just in that way.

By the CHAIRMAN:

Q. Was this combination in the lock changed before the trial began?—

A. Yes, sir.

Q. So that any information secured must have been before the trials began?—A. Yes, sir. The combination in the lock was changed before Mr. Gibson went out, and I presume the change in the combination was the cause of Mr. Gibson going out, in this way: He came into the office one day, and finding the combination changed, marched out again. He was not in the habit of coming in when I was there, only occasionally. The room where he had his desk was where I had mine. I do not remember that he ever came to the office again after he found the combination had been changed. It was within a comparatively short time after that that he went out of the cases.

Q. In trying the Dorsey case, did you have additional evidence from that which Mr. Gibson furnished, mentioned in the paper you submitted yesterday?—A. Yes, sir. If there is any question about that, I would like to have you take that paper, and read the four volumes of testimony, and then you will see we had an immense amount.

Q. Did Mr. Gibson advise you that the statements he furnished with regard to the Dorsey combination were sufficient to convict the defendants?—A. That was the accepted view of both himself and Colonel Cook.

Q. Did that brief include the evidence of Walsh?—A. Not as applicable to the Dorsey case. He had mentioned Walsh in connection with the Prescott and Santa Fé route, but he did not mention that portion of Walsh's testimony which would have rendered it admissible, and which did render it admissible, in the Dorsey case.

Q. Had he mentioned in this brief, to which you referred yesterday, that the testimony of Walsh was necessary in the Dorsey case?—A. No, sir.

Q. He had not advised you of that?—A. No, sir; I do not think he connected that with the Dorsey case.

Q. Did you use all of the evidence that was material to the Dorsey case which had been furnished you by Mr. Gibson in the statement presented here yesterday?—A. I intended to use everything that was material.

Q. All you deemed as material?—A. Yes, sir; and I believe I did. There was in the Dorsey case some statements of outside transactions, which were disclosed by the accounts of the German National Bank, which had passed into the hands of the receiver. We endeavored to utilize them, but while there was some suggestive things about it, and while, I think, in that Mr. Gibson was right, we could not secure the evidence which would get that theory into court. We put the receiver on the stand, and we tried to get the evidence in, but that portion did not become available.

Q. On what does Mr. Gibson base his statement to the committee, that prior to the putting of Walsh on the stand as a witness in the case, you had failed to make out any case against the Dorseys, and were

about to be laughed out of court?—A. That is Mr. Gibson's statement. I do not think so. Mr. Gibson is a lawyer who had to search the records to find out that he had ever been admitted to the bar, in order to get his pay. I do not think he ever tried a case in his life. He told me himself that he had never been engaged in actual practice. He undertook to judge of that case, and did judge of it in one way, while we judged of it in another way. Of course there were stages of the first trial of the Dorsey case at which, as in every protracted trial, counsel saw difficulties gathering around them. For instance, during the first half of the case, Judge Wylie was not very clear in his own mind that the Government had a case, and his rulings were universally against the Government; sometimes we thought very improperly so. The case went along, and at a certain stage of it Judge Wylie seemed (to use a slang expression) "to get his head"; he seemed to comprehend the bearings of the case, and from that time on we did not feel that we had any difficulty in the matter. Whether that was coincident with the time of Walsh's coming into the case, or not, I do not know, but I think, if you will send for Judge Wylie he will tell you that he did not attach the importance to Mr. Walsh's testimony that Mr. Gibson did.

Q. Can you state briefly to the committee the evidence against the Dorsey combination in that trial, before the introduction of Walsh, and then the testimony afterwards?—A. I indicated it here, in a measure, yesterday. It was this, that they had a large number of routes. We had, I think, seventeen or nineteen in that indictment. There was a case in which there was this series of orders which had been made in behalf of one and the other of these men; their interests were pooled; there was no question about that. These orders were based upon affidavits which were false; based upon affidavits which were altered; based upon affidavits which purported to have been sworn to before certain people, when they were not sworn to before them; when they were in blank; affidavits which stated that a certain number of horses, men, and carriers were then in use, when they were not in use. There were affidavits also, which stated—of course that was a matter of opinion—that a certain number of men and that a certain number of horses would be needed, when a much less number were actually needed. There were affidavits in favor of expedition; of the payment of large sums of money by the Government for carrying the mails at an increased rate of speed, when, in point of fact, the mail was at that time being carried at that rate of speed, and sometimes even at greater speed. There was a mass of that kind of testimony, which, as I said yesterday, if you took a single route, and introduced testimony of that character, applicable to that route, and showed Mr. Brady made such an order, that they made such affidavits, there still might be doubt as to the conspiracy of the parties. They might have been so acting as that one side or the other might have been deceived, or might have been acting in good faith. It took two, three, four, a lot of them, to show this combination as to all of the parties. That was the condition of things that was presented in the evidence. There were, moreover, papers, correspondence, statements of these people on file; various things of that sort, which we thought presented a case.

Q. What was the nature of the testimony of Mr. Rerdell?—A. He was not examined on the occasion of the first trial.

Q. How as to the second trial?—A. Mr. Rerdell on the second trial swore positively and distinctly to all sorts of frauds by these parties, going into detail as to their modes of doing business. He did not un-

dertake to say that any money had been paid in his presence, in any way, but he disclosed a state of facts which was intended to leave an inference that money had been paid.

Now, as regards Mr. Walsh, he could not testify to the payment of any money in the Dorsey routes or anything of that kind. Walsh's testimony related solely to his own route from Prescott to Santa Fé. He claimed to have paid money to Brady; that he gave that to Brady from time to time as loans, and when he called upon Brady for a settlement, that Brady then said, "Why, I don't owe you any money; I have done enough for you. Have you not had a good contract, and various things of that sort?" That is the way it was presented in connection with the original statement regarding the route from Prescott to Santa Fé. On that basis of things, as a lawyer I should say it was exceedingly doubtful whether that evidence of Walsh would have been admissible in the Dorsey case, which related to entirely different routes; to entirely different parties. I thought it would hardly come within that class of decisions which allow you (where you are trying a man for false pretenses in a particular case) to prove that he made other false pretenses to other persons of the same general nature. At any rate, it appeared to be very doubtful whether it would be allowed as evidence against Dorsey. I remember that I gave the matter careful consideration. It turned out, however, that according to Mr. Walsh's version of his interview with Mr. Brady during that time, when he was having this discussion, that they went to work, and had some figuring, and that Mr. Brady said to him in substance, "You must pay such a percentage of expedition, and such a percentage of increase, just as the other contractors do," indicating very plainly by that that all of the other contractors were doing that thing.

After an elaborate argument, as I recollect it, extending over two or three days, Judge Wylie admitted that testimony into the Dorsey case. You will not find it in the original brief of what Mr. Dorsey would testify to in connection with the Prescott and Santa Fé route, which these gentleman produced at Long Branch. It came to my knowledge incidentally, considerably later on. With Mr. Walsh I had comparatively little to do. He early conceived a hostility to me. Mr. Merrick was the party who, after my first interview with him, had dealings with Mr. Walsh, as a rule. It was Mr. Merrick who ascertained from time to time what Mr. Walsh could testify to.

Q. Mr. Walsh did testify, then, that Mr. Brady said that he should pay the same as was paid by all of the other contractors?—A. Yes, sir.

Q. How much was that?—A. I can only state from memory. My recollection is it was 30 per cent. or 33 per cent. of the amount of expedition; either of expedition for one year or of expedition for the whole term; I have forgotten that. Then there was a certain proportion of the amounts of fines and penalties remitted; a certain percentage. I have forgotten what it was. If it is important it can be ascertained from the testimony, which is all in print. We were very glad to have Mr. Walsh's testimony on the occasion of the first trial; there is no question about that; but we did not consider that we were going to be laughed out of court because of not having it.

Q. With all of this evidence to which you refer, the jury failed to convict the defendants?—A. They failed to convict any of them except Miner, who was one of the associates, and Rerdell, who was the clerk, the agent, who was doing these things. They were doing them for the benefit of their employers. Mr. Rerdell had no interest in the thing. It was not possible for those two gentlemen to have been guilty, acting

under orders from Brady and Dorsey, and not to have found Brady and Dorsey guilty, the parties who gave the orders.

Q. They undertook to find the agents guilty, and not the principals?—A. Yes, sir.

By Mr. MILLIKEN :

Q. Colonel Cook testified here that he had great confidence in the integrity and honesty of a Washington jury. Are you able to confirm that testimony?—A. I do not think you ought to ask me to express an opinion about Washington juries.

Mr. MILLIKEN. I withdraw the question, if you do not wish to answer it.

The WITNESS. I am perfectly willing to say this, that during the first trial we caused the jury or many of the jurymen to be watched—where they went, their talks, and everything of that kind. We got reports. The result of the reports was to lead us to believe that some of the jurymen were not likely to find in our favor; yet we might have been mistaken. On the second trial there was no attempt to have the jury followed; that is, any systematic attempt. Prior to the first jury being empaneled, we discussed the propriety of asking the court to confine the jury, but we found that Judge Wylie was of the opinion that in a case of misdemeanor, which he considered that case, there was not any authority to shut the jury up.

I will state that what has come to be known as the jury bribery cases I had nothing to do with.

When the first Dorsey trial closed, my wife was supposed to be lying at the point of death. Her condition had been rather heroically concealed from me, and I was only told of it when I got through with my argument. I left here a day before the case closed. I learned of the verdict on the cars. I remained with my wife for a month or six weeks, and therefore I was not at all familiar with what took place in regard to the jury bribery matter, and cannot give any positive information in regard to it, as affecting the question of the standing of Washington juries.

Q. Do you know why Mr. Cook and Mr. Gibson did not continue to act as Government counsel in the star-route cases?—A. Both of them voluntarily resigned, Mr. Gibson with all sorts of professions of satisfaction, and Mr. Cook in a letter of dissatisfaction. They both went out, and I was very glad when they did go.

By Mr. FYAN :

Q. Did you advise the resignation or removal of Cook?—A. No, sir. I am free to say that if I had supposed Mr. Cook would go out, I should have endeavored to squeeze him out. I did not suppose that was a possibility, and therefore I did not try to do it. I went along with great discomfort to myself, feeling I was going along with associates in whom I could not afford to have confidence.

Q. You were satisfied they were betraying you to the other side?—A. Perhaps that is a little too much to say, that I was satisfied they were betraying me to the other side, but I felt they were not faithful to the Government's interest. I will state one fact which led me to this conclusion. At one time I was in Colonel Cook's office, and I met there Senator Kellogg. Mr. Cook said to me Mr. Kellogg was a client of his, and that he must not be hurt. I did not, at that time, know the relation of Mr. Kellogg to any of the cases, and it was not until we got down into the other combinations that Kellogg's name came to the front at

all. In fact it came to the front so little—but I do not know that it is proper for me to refer to what took place before the grand jury.

The CHAIRMAN. There is no objection, I suppose.

The WITNESS. We went before the grand jury and had the Price case brought before it. When Mr. Walsh was asked how he got certain papers, he said they were brought to him by Mr. Kellogg. I did not at all take in the fact that the Mr. Kellogg referred to was Senator Kellogg. I did not think anything about it, as having the least importance in the world. That grand jury after having indicted Price adjourned. After that it was claimed by Mr. Walsh and others that the grand jury ought to have indicted Senator Kellogg as well. I was away in New York. I came back and learned of these reports. I said at once that if that was so, and if this statement of Walsh referred to Senator Kellogg, that the grand jury, not having adjourned permanently, ought to be reconvened immediately.

Q. When was this?—A. This was the grand jury that found the second indictment against Dorsey, as I understand it. It was the grand jury that first indicted Price, whichever one that was. I went to Judge Wylie and asked to have that grand jury reconvened. Judge Wylie was indisposed to do it. I then told him that I thought it was a case in which I had a right to make a personal appeal to him to do it; that by inadvertence I had not taken into proper consideration this statement of Walsh before the grand jury; that the statement referred to Senator Kellogg, as it seemed, and the report was being circulated that there was an attempt to protect Senator Kellogg. I told Judge Wylie that I did not wish to rest under that imputation. The judge, on my stating these facts, had the grand jury brought together a second time. When they were convened, Mr. Walsh, testified before them. At the end of the first day, the grand jury was anxious to dispose of the case. I was afraid all the testimony was not in. I therefore got them to hold over until the next day. The next day Mr. Walsh was there, and he testified on the two days to facts and circumstances, on which, if I had been a grand jurymen, I would have found an indictment.

By the CHAIRMAN:

Q. In what particular case was that?—A. In the San Antonio and Corpus Christi route. The grand jury did not indict. It is possible that, in view of the evidence that was given before the grand jury, they might honestly and intelligently have assumed there was a little break in the testimony, and that Mr. Kellogg might have done everything it was alleged he had done, and yet have done it honestly. I do not mean to question the honesty of the grand jury.

Q. Were you before the grand jury?—A. Yes, sir.

Q. How many witnesses were examined at that time?—A. Two, I think; all we could get. Mr. Price, you will remember, was not at our service then at all. He was hostile. We could not get him. We had this Mr. Ellis for whom we had sent to Texas. We regarded his testimony as so important that we had the post-office inspector come here with him. We had two or three others. We had all of the evidence that the post-office inspectors' reports showed was available. I think there was a very intelligent man here from San Antonio. His name was Devine. He had been a subcontractor, or something of that sort. They were called merely to prove fraud in connection with the allowance for expedition, &c. They gave no evidence except as against Price. Walsh is the only person who gave any evidence as against Kellogg.

Q. He came forward with his statements in regard to Kellogg and

Mr. Brady before that grand jury?—A. Whether the fact that payments were made to Brady in connection with the Prescott and Santa Fé route was put in before the grand jury then, I do not remember. We were not then seeking an indictment against Brady; we were seeking an indictment against Kellogg. The point was this. The theory was that Mr. Price, wanting expedition and being unable to get it, had gone to Mr. Kellogg to have him use his influence with Brady to get expedition; that he did get it, and that there were some very remarkable things about the transaction. For instance, there was an indication that a post-office draft for money to become due on expedition, dated before the order for expedition was made, and yet there was some indication on the paper that it had been arranged for. Mr. Kellogg, it was alleged, got \$20,000 of those drafts. The moneys to become due in the future. Whether any portion of that money went to Kellogg, or whether any portion of it went to Brady, was, in a measure, unimportant in that view. If any portion of it went to Brady, then an indictment for conspiracy would lie; if no portion of it went to Brady, but a portion went to Kellogg, then an indictment would lie under the statute forbidding a member of Congress or a Senator going before any Department of the Government and, for a consideration, soliciting contracts. However that may be, Mr. Walsh, on that attempt at an indictment, did not produce before the grand jury all of the letters and papers which he subsequently did. I may also say that there was the question of the statute of limitation in the way. The statute of limitations had run as against the time when the order of expedition was made; as against the time when the post-office draft was drawn. If we treated any money received under that as having been received at the time when the draft matured, then the statute of limitation did not run. There were points of that kind in the case.

However, that grand jury, to my surprise, did not indict Senator Kellogg.

Q. Mr. Walsh stated before the grand jury that he had made certain payments to Kellogg?—A. Yes, sir.

Q. And it was on account of his influence?—A. No, sir; Mr. Walsh did not know anything about that. That is just where the break came. Mr. Walsh had no knowledge, except that Mr. Price had given certain post-office drafts. We had the drafts. There may be some little inaccuracy, but I think not. Mr. Walsh stated that these drafts were brought to him by Senator Kellogg, and he cashed them.

Q. What drafts?—A. Post-office drafts given on account of these expeditions; money to come from expedition, and the question whether Senator Kellogg was honestly or dishonestly in possession of those drafts was a thing about which the grand jury might have a doubt.

Q. How could he have become in possession of them honestly if he was not interested in the Government contracts?—A. If you want to know he could have come in possession of them honestly, I will state one way in which he could have done so. I have heard outside, since then, that Mr. Kellogg was an influential man down in all that portion of country where Mr. Price had his routes, and that he made political contributions.

Q. For what purpose was that political contribution?—A. I do not know; have merely heard that story outside. You asked me how he could have honestly held these drafts. I have merely stated a way in which he might have honestly done so. I am free to confess if I had been a grand jurymen I should have voted to indict Mr. Kellogg, but the grand jury did not.

Q. One moment; about this contribution. How could Mr. Kellogg have made a political contribution with the proceeds of the star-route contract, legally and legitimately?—A. I do not know. I do not know that he ever made a political contribution, but this occurs to me. Suppose Mr. Price had a post-office contract that he had gotten legitimately. He is applied to by—not by any national committee, for we have civil service now—but he is applied to by a committee for a contribution, or applied to by the Louisiana State committee for a contribution. He says, “I have not any ready money, but I can give you a draft upon the Post-Office Department for money which is to be due to me three, four, five or six months hence. I will do that, if you can use it.” I never knew a political committee to refuse to take anything that they thought there was a chance of transforming into money; and I can imagine that they might take this draft, and then look around for a banker to cash it. That might be innocently done.

Q. Have you not heard that Mr. Kellogg represents that this was a political contribution on account of money that he had advanced in the preceding election in 1876, in order to secure favorable action by the Louisiana returning board for the Hayes electors?—A. I never heard anything of that kind.

Q. Did not Mr. Kellogg justify it on that ground?—A. I never heard of it. Subsequently there was some dissatisfaction at Mr. Kellogg's not having been indicted. There was a new grand jury. Before that grand jury Mr. Walsh went. I did not go. I understand that there were produced before that committee additional papers, and the grand jury indicted. That indictment is pending. We would have been ready to try it at either of the last two terms, but, as I say, Mr. Walsh could not be found. By the time the grand jury met, Mr. Price became available to the Government as a witness. I do not know whether Mr. Price went before the grand jury or not. I did not have anything to do with that. Kellogg was indicted at any rate. From Mr. Price, by that time, information was gotten, which explained things which were left to inference before, and explanations were given of things which were not before that understood.

Q. Was the question as to Mr. Price's appearance before the grand jury discussed between you and other counsel for the Government prior to his first introduction as a witness before the grand jury?—A. You are entrenching a little upon what occurred between counsel, but I think I may state that at the time, and before the additional documentary evidence was produced, I was inclined to take the view that, Mr. Price being already indicted, and being, in my opinion, a guilty man, it was not a wise thing to do, nor would the Government be justified in granting immunity to Mr. Price for the purpose of indicting Mr. Kellogg, because, in my opinion, his testimony would not go sufficiently far to secure the conviction of Mr. Kellogg. My view was that we should not let go of the one before we got hold of the other. At a subsequent period, when the additional evidence contained in the papers which Mr. Walsh had become known, I had no question whatever then as to the wisdom of doing it. The first time we had the discussion, I differed with Mr. Ker and Mr. Merrick and the Attorney-General. The matter was finally left to the Attorney-General for determination, and I was overruled. Let me say—

Q. The Attorney-General decided it?—A. Yes, sir; he decided in favor of using Price and prosecuting Kellogg. That was before the additional papers came. Let me say further that that is the only case in the whole history of these trials in which there was anything approach-

ing to a disagreement between the three counsel, Messrs. Ker, Merrick, and myself. That was so in spite of the most persistent efforts by newspapers, by Gibson, and others to stir up trouble between counsel. We never differed.

Q. What was the nature of the evidence that Price offered to the Government?—A. I did not have that talk with Mr. Price. I had nothing to do with that portion of the case.

Q. You afterwards heard him testify?—A. No, sir; I never heard him testify.

Q. Did he not appear before the grand jury?—A. I did not appear. You will see the point was this: Mr. Walsh conceived great hostility to me, and at different times has said and done things that I have not felt I was at liberty to answer, because if I did so I might hurt the case. The result was that when Mr. Price became a witness I was engaged at a certain stage of the Dorsey case, second trial, in such a way that I could not have attended to the matter before the grand jury, even if I had been disposed to do so. Out of deference to Mr. Walsh's feelings it was considered that it was best that I should be left to one side; and therefore, by a tacit arrangement, without any positive agreement, it was understood after Mr. Price came into the case, solely for the purpose of having things go along smoothly, that I should stand to one side so far as Mr. Kellogg's case was concerned.

Q. Who went before the grand jury?—A. Mr. Ker.

Q. When the indictment was finally found against Mr. Kellogg and Mr. Brady?—A. Yes, sir.

Q. Were you not advised as to the purport of Mr. Price's testimony, when it was a matter of discussion between the Government counsel, as to whether he should be accepted as a witness or not?—A. When it was a matter of discussion he had not offered to become a witness. We had reason to believe that we could get him as a witness. There had appeared some one of these intermediaries that every lawyer in practice has seen, who comes forward claiming to have no connection with the parties, but he says, if so and so consents to be a witness will you accept him. This matter did not come before me. Mr. Merrick can tell you all about it.

Q. You understood Mr. Price would testify?—A. Yes, sir.

Q. And if he testified fully to all the facts, and would tell the truth, he was to be granted immunity?—A. That was the theory; I differed with my brethren in the matter, because I thought from the statement we had of what Mr. Price could testify to, that while it would be morally, perhaps, convincing, I did not think it would secure the conviction of Mr. Kellogg.

Q. What was the evidence that it was represented to you he would give?—A. I cannot recall it with any accuracy; Mr. Ker, who is here, can probably tell you more about that than I can. My idea is that it was expected that Mr. Price would show affirmatively that those drafts were given to Kellogg for services in procuring the order for expedition, but he would not go so far as to say that any portion of the money went to Brady; that is my recollection. It was claimed that if Mr. Price would so testify that those drafts went to Mr. Kellogg for services in procuring the order, that that would put an end to any theory of political contribution. At that time, however, we were considering more particularly the question of an indictment for conspiracy than the question of an indictment under the statute for the offense of a Senator going before the Department and soliciting an order of this kind.

By Mr. MILLIKEN:

Q. Why did you think Price would not testify that any portion of that money went to Brady? Because it really did not go to Brady, or because he would not testify so as to implicate Brady?—A. I think the suggestion of the testimony which it was said Price could give was limited by the statement that he could trace it no further than to Kellogg; and it is also proper to say that I understand that Mr. Price has always claimed that he himself was not concerned in any attempt at bribery, or anything of that kind; that he had not been guilty of any offense that involved general moral turpitude, though possibly he had been guilty of an offense of employing a Senator to go before the Department, which, while a statutory offense, he did not regard as involving moral turpitude. I am very confident when we talked about the necessity, the idea of using Price, that the testimony was chopped off right there; that he could not prove that any of it went to Brady.

Q. Did not Walsh's evidence and his together show?—A. No, sir; Walsh showed no connection with Brady; you are right; there was something in Walsh's testimony, as I recollect it now, going to show money went to Brady. I think Walsh made some statement showing that some of these drafts were in Brady's possession.

Q. The amount involved in these drafts was \$20,000?—A. That is my recollection.

Q. They were drawn to be paid at a future time?—A. Yes, sir; I think so. It seems to me that the \$20,000 was not all made up of post-office drafts.

Q. Part in cash?—A. No, sir; I believe some notes were due in New York.

Q. Some individual notes, and the rest were post-office drafts, orders, to be paid at a future time out of the proceeds of the contract?—A. Yes, sir. You are really asking me in regard to things that I know nothing about, only as I get the information second-hand; the other facts I have been testifying about are facts that I have personal knowledge of.

Q. Didn't the case, as presented by the evidence of Price and Walsh, tend to show that \$20,000 were paid by Price, a contractor, to Kellogg, in notes and orders upon the Post-Office Department, to be paid out of the proceeds of contracts on the Corpus Christi and San Antonio route?—A. That is my impression.

Q. And collections by Walsh were to be divided equally between Brady and Kellogg?—A. No, sir; I do not think there was anything in the evidence which went to show that in the collection it was to be done in that way. There was something in Walsh's testimony which indicated that some portion of the proceeds was to go to Brady, but my recollection is that it was not very direct, because I never felt confident that Brady ever did get any money in that case. I never felt confident that the order he made was not gotten from him by personal influence and solicitation. That is the impression I received, whereas, if Walsh's testimony had been absolute and direct of the payment of money to Brady, or something of that sort, I could not have gotten that impression. I did not get that impression, I assure you, because I thought Brady was too good to take money.

By the CHAIRMAN:

Q. In the testimony of Mr. MacVeagh, he stated that he called President Garfield's attention to the fact that some of these prosecutions might result in changing the majority of the United States Senate from a Democratic to a Republican majority. I desire to ask you

whether your attention, pending the efforts of procuring an indictment against Kellogg, was called to the fact by any one; and, if so, by whom?—A. I do not remember that my attention was called to the matter at all.

Q. Was there any suggestion made before the grand jury at the time the Kellogg case was being examined, to the effect that it would be a serious matter to indict a United States Senator?—A. Yes, sir; one of the colored jurors said it would be a serious matter to indict a United States Senator. Let me say here that the grand jury I refer to had knowledge of the matter outside of the evidence that was introduced before them. I do not mean to say that it was knowledge that they had not a right to have. For instance, while I was waiting in the ante-room to be allowed to go before the grand jury, somebody was sent out, and that person came back after a little while with a book. When I got into the room, I ascertained it to be a book from the Congressional library, containing testimony in the contest with Kellogg regarding his seat. Some member of the grand jury knew that in that contest there was testimony given by Walsh.

By Mr. MILLIKEN:

Q. Did they have that book before them in the grand-jury room?—A. Yes, sir. It appeared there that Walsh had been a witness in the case of Spofford against Kellogg in the matter of the contest over Mr. Kellogg's seat.

By the CHAIRMAN:

Q. Could you maintain an indictment found upon such testimony as that?—A. I considered that question very carefully, and I satisfied myself that the grand jurors had a right to make their own inquiries within a limited scope, though it was not testimony in any sense. I did not get the indictment, however, and, therefore, the question did not arise. I examined into the question more from curiosity than anything else. From the examination I gave the matter, I rather came to the conclusion that the introduction of that book into the grand-jury room would not have invalidated the indictment had I succeeded in securing one. At the same time I beg to remark that the book was not there by any instigation of mine, and I would have been sorry to have had that question to meet on a motion to quash.

Q. Did you learn what the book was?—A. It was the Congressional report of the testimony in the case. I may say this, that after we had gone through with Mr. Walsh, and got such statements from him as he was enabled to give, Mr. Walsh recognized the book, and picked it up and turned to his testimony. I saw what it was, and I saw just where there was a point there. Mr. Walsh had testified before the Congressional committee, in a sort of general way, that he had never had any dealings with Kellogg, or something of that sort. Of course this question of his drafts there seemed, in a measure, to be inconsistent with that theory, and, therefore, I took the book and questioned Mr. Walsh about it right there. One of the grand jurors remarked that there was no use in going into that. I went on and brought out, as I thought, evidence of the fact that the answer of Mr. Walsh before the Senate committee—if it was a Senate committee—was confined to the particular matter which was then before that committee, and that the answer did not cover the general ground of saying that he had never had dealings with Kellogg.

Q. What member of the jury was that?—A. Somebody was sent out for the book; the attendant went, I believe. I always believed, with

out knowing the fact, that the party went to the district attorney's office, and the district attorney sent up to the Congressional library and got it.

Q. District-Attorney Corkhill?—A. Yes, sir; I do not know whether he was there or not.

By Mr. MILLIKEN:

Q. Mr. Price, as I understand it, was to testify under promise of immunity?—A. I understand that is so, and yet I do not know it. I had nothing to do with it. I say the moment after Price was accepted as a witness, after it was decided to accept him as a witness, I was entirely aside in the matter; put aside freely, with my concurrence, because Mr. Walsh took the position that he would not give any testimony, would not render any assistance, would not do anything whilst I was in the case and whilst there was a sort of personal mortification in connection with it of being bulldozed, apparently, I yet accepted the situation and said, very cheerfully, "Leave me out."

By the CHAIRMAN:

Q. Then the indictment was found at a subsequent term when you were not present before the grand jury?—A. Yes, sir.

Q. And that indictment is still pending?—A. Yes, sir.

By Mr. MILLIKEN:

Q. You testified some time ago that Mr. Cook severed his connection with the Government, complaining; what was his complaint?—A. That confidence was not placed in him. The trouble was that we could not traverse the fact.

Q. There was not much disagreement between you all then about his going out?—A. No, sir; not at all. His going out was certainly very agreeable to me.

The usual hour of adjournment having arrived and the examination of the witness not having been concluded, he asked of the committee the favor of allowing his further examination to be postponed until Tuesday, April 2, 1884.

This request being complied with the committee adjourned until Monday, March 24, 1884, at 10 o'clock a. m.

WASHINGTON, D. C., *April 1, 1884.*

GEORGE BLISS recalled and further examined.

By the CHAIRMAN:

Question. You may proceed, Mr. Bliss, with any further statement which you desire to present. If there are any corrections that you wish to make in your former testimony perhaps you had better begin with that.—Answer. I expressed a doubt whether I had ever seen the letter of Mr. Gibson to the Attorney-General, written in January, 1882, urging that we should proceed with Route 40101. I find, by reference to my correspondence, that I did see that letter. When I was examined before I believe I stated in relation to it that it would not have made any difference in my action whether I had seen the letter or not, and that is true; but I did see the letter.

I spoke also in my former examination of the endeavor to get certain papers from Colonel Cook. I find the condition of the record in regard

to that matter to be this: On or about the 27th of December the combination of the safe was changed. On the 6th of January I wrote to Colonel Cook saying that I was trying to get things in shape, and I wished that anything he had in the way of papers should be returned. He replied that he had nothing. The matter remained in that way for a time. Before that, however, he had written Mr. Woodward urging him to send him additional abstracts for the routes which were known as the Dorsey routes. Mr. Woodward did not send him any in consequence of that letter, but previously, on the 15th of October and the 1st of November, he had sent Colonel Cook abstracts as to sixteen routes, all of which except one were included in the original Dorsey indictment. One of them, the route from Dalles to Lake View, was dropped out from the second Dorsey indictment, because it was thought the statute of limitations had run against the overt act alleged, to wit, the making of the order. The abstracts on those sixteen routes were sent, as I say, by Mr. Woodward to Mr. Cook on the 15th of October and the first of November. On the 6th of January succeeding, as I have already stated, I had written to Colonel Cook, asking him to return the papers, and on the 9th of January he replied, stating that he hadn't any papers. Then the matter ran along until, I think, the 16th of March, when I again wrote to him for the papers, specifying more in detail the fact that the papers I wanted were abstracts of these reports. I got a reply from Colonel Cook in writing, stating that he hadn't any of the papers. On the 17th I wrote him again. I never got any answer to that, but on or about the 17th, within a day or two of that time, he resigned, and I think on the 27th, at my instigation, the Attorney-General wrote him, transmitting a letter of mine to the Attorney-General, dated on the 24th. This, the committee will perceive, was some ten or twelve days after I had called upon him to return the papers, and after he had stated to me that he had none of the papers. On the 28th he did finally send to the Department sixteen papers, which were the very reports I had been calling for—Mr. Woodward's abstracts, containing the statement of our evidence as to each and every one of those routes; and it is a little remarkable that in "ways that are dark," and which I cannot state here because I have only discovered this fact of the return of the papers to the Department this morning—I saw something in New York yesterday which suggested it to me, and I telegraphed about it—it is a little remarkable, I say, that long before I got this information we had learned that the other side had abstracts of our evidence on sixteen of the routes. These papers, you see, were returned by Colonel Cook to the Department on the 29th of March, after he had been out of the cases ten or twelve days, and after he had previously asserted that he had no such papers; and I simply say that, in my opinion, they were retained for the purpose of being copied for the benefit of the other side.

By Mr. HEMPHILL:

Q. Were they the same sixteen?—A. The same sixteen. Well, we did not know what the other side had, except that we identified the questions put by them along during the trial as based upon the evidence in regard to those routes to which these abstracts related. We simply learned that they had sixteen of our abstracts, and it appears that there were just sixteen returned by Colonel Cook to the Department. I never saw these until to-day.

Q. Some of the sixteen which Colonel Cook returned you discovered, from the examination of witnesses by the defendants' counsel, to be the same that they had?—A. Some of the sixteen related to routes as to

which their examination of the witnesses showed that they had information from our papers.

By the CHAIRMAN :

Q. Was there any other means by which they could have obtained that information or got access to those papers?—A. No, sir; the reports were Mr. Woodward's, and they were kept so closely that there never was any copy made of them, except the one that went to Colonel Cook, and, other than those sixteen, we never had any copies made of the reports at all; I used the originals.

Q. Then the only two copies that were in existence were the one that Mr. Woodward had and the one that Colonel Cook had?—A. The only two copies, so far as I know, and the only two copies that could be legitimately in existence.

By Mr. HEMPHILL :

Q. By two copies you mean the originals and the copies which Mr. Cook had?—A. Yes, sir; the originals and those copies.

Mr. WOODWARD. Both of them were copied into a letter-press copy-book, which was locked up in our safe and never went out of the room.

The WITNESS. They were kept so confidentially that even I never got into the safe. Mr. Woodward would not let me into it. So much for that. Now, perhaps I ought to say a word or two in regard to some things which have been stated in evidence here before I submit myself to what may be called cross-examination. In the first place, Mr. Cook testifies that Mr. Brewster, on a certain occasion, which was apparently about the time when Mr. Cook was going out of the cases, told him, substantially, that he could not do with me as he wanted to, because I had procured his appointment as Attorney-General. In the first place, the statement is wholly absurd on its face; and in the second place, Mr. Brewster is a truthful man, and he knows I did not procure his appointment; so I do not believe he ever said anything of the kind. In point of fact, I suppose there is no harm in my saying that, as to Mr. Brewster's appointment as Attorney-General, my whole knowledge of it in advance arose in this way. I was very much with the President when he first arrived here, but I never exchanged a word with him as to Mr. Brewster's being Attorney-General until, one evening, I did say to the President that, after looking over the whole field, I wished things were in such shape that Mr. Brewster could be Attorney-General, and to my surprise, the President then informed me that things were in such a shape, and that Mr. Brewster was to be Attorney-General. That was the first of my knowledge on the subject; so that I do not think Mr. Brewster could ever have said anything like what Colonel Cook attributes to him.

Now, as to the question about Colonel Corkhill at the interview at Elberon, both Colonel Cook and Mr. Gibson expressed very great doubt as to Colonel Corkhill, stating substantially that he was in the interest of the other side; and they referred to a former attempted investigation in which Mr. Hinds had tried to get the district attorney to go before the grand jury. I confess that what they said impressed me a good deal at the time. I did not know Colonel Corkhill, and had never seen him. Mr. Gibson and Colonel Cook took this view, and I found also that Mr. MacVeagh shared in the distrust of Colonel Corkhill, as appears by his evidence here, and, coming into the cases as I did, I shared very largely in it at the time.

When we got fairly to work, in October or November or somewhere

along there, the question of whether or not we could go on with Colonel Corkhill as district attorney came up, and I guess we all agreed that we could not—I confess that I did—and we looked around to see who should be appointed or recommended to take the place of Colonel Corkhill. To my surprise I found, in the first place, that Colonel Cook wanted to be made district attorney. I took occasion to say to him in conversation, and, I think, by letter also, that that would not do. I knew none of the lawyers here, so I asked him to consider the matter and recommend some one for district attorney, and by and by he came back and recommended Mr. Cole, his partner. I did not bite very well at that, and then Colonel Cook, with some formality, claimed that he was entitled to be heard by the President, and to have a peculiar influence with the President in the appointment of the district attorney, on the strength of the fact that he was in the cases, and he wanted that I should take him and introduce him to the President some evening, which I did not do; but I took occasion to write him that there was no use talking about that; that I did not believe the President would think that he should have any more right to say who should be district attorney than any other citizen of Washington. We went along, Colonel Corkhill being still in office and the Guiteau case going on. Senator Edmunds, as the chairman of the Judiciary Committee of the Senate, took the position very decidedly that he would not under any circumstances assent to the confirmation of anybody in place of Colonel Corkhill as long as the Guiteau case was going on (at least so I was informed by others; Senator Edmunds did not make any such statement to me), and I understood that the President was very decided in the same view—that he ought not to remove Colonel Corkhill at that time; though he was prepared to do so if the Attorney-General would recommend it. This was after Mr. Brewster came in. The Attorney-General was influenced, in a measure, apparently by what all of us had thought on the subject, and did intend to recommend the removal of Colonel Corkhill; but he finally changed his mind and did not do it. We went along, and whenever I came to sit down and see what I really knew about Colonel Corkhill, beyond what was alleged to have occurred in connection with the previous investigation, and of which I knew nothing, I felt bound to say that there was nothing I knew of that would justify his removal. He had, I believe, been on good social relations with some of the defendants and had probably been disposed in their favor, but we were going on without him, and without any communication with him except communications of a formal kind, and he was doing promptly everything that we required him to do; so when, after the first trial or before the second, I wrote a letter to the President complaining of certain officials, while I did make some remarks about Colonel Corkhill, I expressly excepted him from those officials as to whom I was suggesting removal. As I have said, at the outset of my connection with the cases, I did share very strongly in the distrust of Colonel Corkhill. I do not know anything about any action of his preceding that time, but from the time I came into the cases, while we were always a little distrustful of him, yet our experience was that every time we asked Colonel Corkhill to do anything he did it.

By Mr. MILLIKIN:

Q. What is your opinion now as to Corkhill's fidelity in the matter?
—A. Well, from the time I came into the cases there was no chance for him to have been other than faithful, because he had substantially nothing to do with the cases. There was one time during the progress of

the cases when we had a little doubt of him. We wanted to get our indictments filed promptly, and the story came to us that he had said that he was not going to sign the indictments that we had drawn; that he was going to assert his dignity, and so on, and we were a good deal worked up about it; but upon the Attorney-General sending the indictments to Colonel Corkhill there was found to be no such disposition on his part, and he signed the indictments, and we went on. If you ask me what I learned of his previous relations to the matter——

Q. (Interposing.) No; I do not ask you that. I ask your present opinion as to his fidelity at that time.—A. There was really no question of fidelity or infidelity after I came into the cases so far as I know, because Colonel Corkhill had nothing to do with them except in a most formal way. For instance, if I wanted a case to go before the grand jury I would write to him to say that we desired at such a time to put evidence before the grand jury, not even telling him what the case was or anything about it, and he would send word to the grand jury about the matter. That was all the connection he had with the management of the cases; therefore you see, there was really no question of fidelity or infidelity, so far as I had knowledge of anything he did. I do not think that, as a matter of fact, he was in entire sympathy with the prosecution. All the local influences with which he was connected were on the other side; the people with whom he was in the habit of associating socially had been friends of Mr. Dorsey's, and of course were not favorable to the prosecution.

Q. But he had no opportunity, according to your statement, to "give away" the Government, even if he desired to do so?—A. He never had knowledge of the details of the cases, nor of a particle of the evidence.

Q. So that it was really of no consequence whether he was in sympathy with the Government or not?—A. After the time when I came into the cases it was not of consequence. The only thing that he did that may be said to have injured the Government was that adjournment of the grand jury while we were at Elberon, as to which Mr. MacVeagh and Mr. Cook have spoken, and about which I know nothing. But even that did not injure the Government in the long run. It was unfortunate, however, that that grand jury was adjourned. Mr. Corkhill always claimed that he had seen the Attorney-General about it and had asked him if there was anything more for the grand jury, and told him they were going to be adjourned. Mr. MacVeagh remembered the interview otherwise. It was unfortunate that the adjournment occurred, but I know nothing that would lead me to distrust the good faith of Colonel Corkhill in that respect, from anything that occurred to my knowledge after I came into the cases. At the same time I am frank to say that I should not have selected Colonel Corkhill for district attorney.

By the CHAIRMAN :

Q. Do I understand you to say that you withdrew your request for the appointment of some one else as district attorney?—A. We never made any formal request. The matter was talked over, and the other gentlemen rather relied upon me to look around and ascertain who there was in Washington who would be a fit and competent person to appoint. Mr. Merrick was not then in the cases, and I knew nothing about the lawyers here and did not know any of them personally, except Colonel Cook. I talked with him about it, and, as I have said, he at first wanted to be appointed himself, and afterwards proposed the appointment of his partner, Mr. Cole, and he raised objections to everybody else that

was mentioned. However, the matter went along without anything being done about it, until gradually I reached the conclusion, or it seemed to me, that there was not any justification for recommending the removal of Colonel Corkhill, or any necessity for it. Then there was this Guiteau trial, which was going on at the time, and Colonel Corkhill's relation to which I perhaps had not appreciated. So we went on through the first trial. I would have always preferred to have had somebody else in the district attorney's office, because I would have liked to have had somebody in that office to whom I could have gone and with whom I could have talked the cases over and learned his views about the local law and the practice here, but we had no such person and no such aid. At a later period there was a recommendation of mine for Colonel Corkhill's removal, a recommendation made one day and withdrawn the next. It was at the time this question arose about signing the indictment, but that was settled, and the recommendation was withdrawn.

By Mr. MILLIKIN:

Q. He came the next day and signed the indictment, did he?—A. The transaction is this. I suppose there is no harm in my stating it. We learned of Colonel Corkhill having said that he would not sign any indictments; that he was going to assert his manhood. I rather think there was no question that he so asserted. We were in such a position that the indictments had got to be filed to save the statute, in some views of it, within two or three days; and, of course, they could not be filed without the signature of the District attorney, and therefore I addressed a letter to the Attorney-General upon the subject. After I had written that letter and left for New York, I think, and was on my way there, it occurred to me that that was a pretty serious step to take, if for no other reason, because Colonel Corkhill would, of course, be exasperated by anything of that kind, and that we might fail to get his successor confirmed in time by the Senate, because, of course, it must be done very promptly in order to serve our purpose. Therefore I addressed a dispatch to the Attorney-General suggesting that view, and urging that we had better go slow about it. Mr. Edmunds, as chairman of the Judiciary Committee of the Senate, was consulted, and the thing was stopped right then and there. I am free to say now that I think Colonel Corkhill had talked as it was reported to us that he had, but I think I was somewhat misled in the matter. I think the original virus that was put into my mind with reference to Colonel Corkhill had held up to that time. I never had any personal relations with him in any manner.

By the CHAIRMAN:

Q. Were any efforts made to have Colonel Corkhill removed after the conclusion of the Guiteau trial?—A. This matter that I speak of was after the conclusion of the Guiteau trial. That is my recollection.

Colonel Cook testified here that I procured the discharge of a number of detectives of his. The fact about that is that some time after Mr. Brewster came in as Attorney-General he said to me that he wanted to control the outside expenses, and that they must be kept down. I told him I knew of no such expenses. He told me he had learned that there had been bills for detectives filed, and asked me if I had seen the detectives that were employed. I told him I had not, and that I did not know anything about them. He said that the bills had been filed and paid, but that the vouchers had not gone on file; they had been certified by the Solicitor-General as Acting Attorney-General, who cer-

tified that certain vouchers had been produced, but they had not gone on file in the Treasury Department, and I see that that transaction appears in the printed return furnished in response to Senator Van Wyck's resolution. Thereupon the Attorney-General addressed me a letter, and, I think, one to Colonel Cook also, saying that he wanted all these outside expenses stopped, or, at any rate, that none must be incurred without his knowledge, and asking whether I had any detectives employed. I replied that I had none. He asked me if I knew of any. I told him Colonel Cook had some, and thereupon he wrote to Colonel Cook to discharge them. I never saw the detectives, and do not know who they were, and I never saw any advantage from their employment. They had been at work and were being paid for two or three months before I came into the cases, but I knew nothing about them, and I had nothing to do with their discharge, except in the connection I have stated. I did think, however, and I think now, that they were of no earthly use.

Q. Were those the detectives who were watching the jury?—A. Oh, no, sir. These detectives were employed long before that—along in October, November, and December, 1881. Some of them were gentlemen who have since been under indictment in connection with these District matters. Some of them, I think, were in the District service at that time. An idea has been given out here that the Dorsey case was not early selected as a case to be tried. I call the attention of the committee to the fact that that case was brought before us in the conference at Elberon, and that a letter (which is already in your record), dated the 1st of October, 1881, from me to Colonel Cook, calls for the papers in the Dorsey case. All of these papers, which Colonel Cook was calling upon Mr. Gibson for, the papers which he got, and those which he did not get, including those which he asked for on the 27th of December, and which Gibson had sent to him, expressly related to the Dorsey case. His letter of the 27th of December asked for the papers in the Dorsey case. I say this merely because it has been given out that I got up the Dorsey case, and they had nothing to do with it, when the fact is that that was the only case, except the case of the route from Prescott to Santa Fé, that Colonel Cook and Mr. Gibson had dealt with in any detail.

By Mr. MILLIKEN:

Q. Quite a good deal has been said here about the Dorsey case not having been a proper case to commence with. Will you state, as briefly as you can, the reasons why the Dorsey case was taken as a pioneer case instead of route 40101, or any other of the other cases?—A. The Prescott and Santa Fé route was a route of this kind in general terms: it had been let to contractors who had failed and had been declared failing contractors. While they were the contractors Mr. Walsh had advanced money to them, claiming to act simply as a banker; he had advanced a considerable amount of money. Under the rule of the Post-Office Department, when a contractor fails the Department officials go up the list of bidders, that is, they offer the contract to the next highest bidder, but he is not bound to take it, and after that they give the contract ordinarily to anybody who comes in and makes a bid for a sum less than this next highest bidder. After these parties were declared failing contractors Mr. Walsh came in and made a bid for a little less than the next highest bid and the route was given to him. Prior to that time there had been expedition and increase of trips, but that had been cut off, and when Mr. Walsh bid it was on the original service. After that time there was other increase and expedition, and there was

quite a large sum allowed in the aggregate, \$64,000 or \$74,000. Then after a time Mr. Walsh himself was declared a failing contractor and the route was taken from him. But prior to that there had been changes in the route. The terminus had been swung around so as to reach Albuquerque and there had been various other changes. Now there was a case which simply presented on the record, and apart from the testimony of Mr. Walsh, this condition of affairs: that the original contractors had been declared failing contractors; that Walsh had been allowed to come in and bid at less than the next highest bid; that then the number of trips had been increased and the speed expedited; and then Walsh himself had been declared a failing contractor and the route had been taken from him. Now, in that state of things, apart from the testimony of Walsh as to his dealings with Brady, there was nothing in the case that would lead to a conviction, or even secure an indictment; and, in fact, it was a weaker case than almost any of the others, because, even if Walsh had been at one time in the favor of Brady, he had passed out of that favor, the contract had been taken from him; and, therefore, the record seemed to show that Brady had been in that respect a faithful officer. Mr. Walsh came in and claimed that he had had dealings with Brady which were corrupt and had paid him money, but Mr. Walsh at that time had quite a claim against the Government. After the investigation commenced he had induced the Government officers to stretch things to the very outside in allowing him pay. When he was declared a failing contractor his pay was stopped, and he now came in and claimed that, in some form, he had been made a failing contractor through the unjust action of the Department, and, therefore, that he ought to be paid the balance due him, \$6,000 or \$8,000, I think it was, that he claimed, and they gave him the benefit of the doubt and paid him the money, and then supposed that his case was all settled. But pretty soon Mr. Walsh came around with a claim for a month's extra pay. When a contractor's contract is terminated by the Department not for any fault of his own, he has a right under the law to a month's extra pay, and Walsh claimed that paying him this \$6,000 or \$8,000 on the ground that he had been made a failing contractor through some unjust action of the Department showed that he was not at fault and was a failing contractor through no fault of his own, and that, therefore, he was entitled to this month's extra pay, and he was very earnest to get it. On the other hand, the officers of the Department considered that when they had paid him that money there had been an agreement that that was to be the end of the matter, and the present Second Assistant Postmaster-General was very earnest in that view, and regarded the assertion of this later claim as an act of bad faith on the part of Mr. Walsh. I may say in passing that Mr. Walsh has since gone into the Court of Claims in an endeavor to establish that claim, and that the Government is fighting it there.

Q. What is the amount of that claim for the extra month's pay?—A. I think it is \$14,000.

Q. One-twelfth of \$105,000 a year?—A. No; that would be only eight or nine thousand dollars. There were so many changes on these routes that you cannot take the pay at any given time as a basis of such a calculation. I think the amount is about \$14,000, but I may be wrong. So much for that. There was Mr. Walsh in that position, with a claim upon the Government and making an allegation that he had paid money to Mr. Brady. His claim was that he had loaned money to Mr. Brady. The impression was very strong on my mind from the outset that if Walsh had had these money transactions with Brady they prob-

ably would turn out to have been of a different character from what he stated. He did not admit and would not admit at any time that he had had any *corrupt* dealings with Mr. Brady. The idea he gave out was that Brady had undertaken to blackmail him—at all events he claimed that he had paid this money to Mr. Brady.

Q. Do you know whether that claim of Walsh's for the extra month's pay has ever been paid?—A. No, sir; it has never been paid; it is in litigation in the Court of Claims, and from what I learn of the evidence I apprehend that it never will be paid.

Q. Did Walsh demand that pay in consideration of testifying before the grand jury?—A. I cannot say as to that. I had nothing to do with it. I know that he did time and again insist upon it to me that he should have that pay, and that that matter should be arranged before he went further; but all that was later.

Q. You say that in this case of which you have been speaking there was no evidence of corruption except the testimony of Walsh as to some corrupt transaction between him and Brady?—A. Money dealings—not corruption. He denied corruption. Mr. Walsh never admitted that he was engaged in any corrupt transaction with Mr. Brady.

Q. What interest had the Government to prosecute this matter between Walsh and Brady?—A. None whatever, sir. I was going for every Government officer in the first place, and next for the contractors. I had been brought into the cases through Mr. James solely or chiefly because I had insisted upon procuring the indictment and conviction of a deputy collector in New York, a man whom I had myself recommended for appointment. I may say, however, that although he had my recommendation and that of others, he was appointed to that place chiefly because under the then existing civil service examination he passed the highest examination of any applicant for the position.

Q. Who was he?—A. I cannot think of his name at this moment. He was indicted for conspiracy and the fraudulent passing of invoices at the New York custom-house, by which the Government lost over a million of dollars.

Q. Was that the fellow that the civil service rules put in?—A. Yes, sir; but not the civil service that we have now. The reform had not got so far at that time. [Laughter.] I prosecuted him, and he was indicted, and we had a very hard trial; but he was convicted and went to State prison and served out his time. It was on the general idea that I thought it was to the interest of the Government to convict Mr. Brady first as a Government officer that I proposed to conduct the cases, and there were other Government officers also that I was looking after.

Q. Was there anything in what Walsh asserted in relation to his dealings with Brady that, if true, would have convicted Brady? Did the transaction, as stated by Walsh, involve Brady's official integrity so that the Government would be interested in prosecuting him?—A. There were certain matters that suggested things against Mr. Brady, but I do not think there was anything at that stage of the case which squarely affected his official integrity, though it is possible there may have been. Later on Mr. Walsh's memory became better and then he remembered that Mr. Brady had made a statement that Walsh must do—yes, I now remember that there *was* something at that date. Mr. Walsh claimed at that time that when he went to Mr. Brady to get a settlement for the money that he alleged he had advanced to him, Mr. Brady replied that he had done enough for him, Walsh, that he had got his pay as he went along, or something of that sort. Mr. Walsh said he

had claimed that he had not, that it was not so; that he had made a loan of this money to Brady, but that Mr. Brady took the ground substantially that it was bribe money. That was Walsh's statement at the time. His statement, however, was intensified at a later stage of the case, and he then said that Brady at the same interview had told him that he "must do as all the other contractors did." Mr. Walsh did not make that statement, however, until a long while after this time of which we have been speaking. I think he made it first to Mr. Woodward.

Q. Was there any other testimony except Walsh's own statement as to that state of facts?—A. No, sir; there was not.

Q. So that if you had prosecuted Brady on that transaction you would have had simply Walsh's testimony with Brady contradicting it?—A. Yes, sir. I have here Mr. Walsh's statement which, if you desire, I will read.

Q. That is hardly necessary, perhaps. I will state to you the object of my inquiry and then you can perhaps make your answer without reading that statement. As I said before, considerable testimony has been put in here by Mr. Cook, and I think by Mr. Gibson, that in selecting the Dorsey case you took the most complicated case, the one in which you were least likely to succeed, and that it was not a proper one for a pioneer case. Now I simply desire to have you state whether that is the fact or not?—A. I think that in my previous examination, at a time when you were not present, I went fully into that question. As to Mr. Walsh's statement, I testified that there was a statement of what Walsh knew which had been prepared by Mr. Gibson, and that I got Walsh here and read it over to him and corrected it by striking out certain things which it turned out he was unable to testify to of his own knowledge. I have here the original statement.

Mr. MILLIKEN. If you have already testified on that point in my absence, you need not go over it again.

The WITNESS. I have stated the reasons why the Dorsey case was the best case to begin with. As to this other case I think there can be no question that Mr. Walsh did at that time make assertions which implied corruption on the part of Mr. Brady; but I regarded Walsh's statements as certain to be contradicted by Brady, and then when you came to the circumstances of the case my idea was that the record evidence as to that route was not so strong as the evidence in regard to other routes which we were investigating, and I regarded Mr. Walsh as in this position—that if the transaction was truthfully stated by him, and if Mr. Brady thought that he was in danger from Walsh's testimony, the probability was that if we took up that case Walsh would take a trip somewhere before we got to the trial and we would be left without any evidence. In other words, that he would collect from Mr. Brady the twelve or fourteen thousand dollars that he was claiming of the Government, or perhaps more, and would disappear. We would be resting in that case entirely upon a single thread, the testimony of Walsh, and for these reasons I did not think that a proper case to put ahead.

Q. You felt that you would be resting upon a single thread and you considered that it was a thread that you could not rely upon?—A. Yes, sir; I so considered, and I think that the result has shown the correctness of that view.

Now as to the Dorsey case, as I have already said, that was a case of successive orders made in favor of the same set of men, always in their favor, never declaring them failing contractors, but everything always to their advantage. We put nineteen routes into the original indictment, but we could have extended it much beyond that number.

In that case you had these repeated reiterations of orders by Mr. Brady in favor of these same parties, and that was the strength of the case. He might have been imposed upon in the first instance, or perhaps in the second, but when you found these orders coming along one after another and found these increases and everything of that sort being made regularly and continuously in favor of the same parties, I considered that we had a case which would carry conviction to every fair mind. I have got here a tabular statement which we used; and I may as well show you at this point how those routes and the orders upon them ran along. Bear in mind that Peck, Miner, and John W. Dorsey were the three original bidders, and that they were admittedly in combination. Stephen W. Dorsey was in the Senate and could not become a contractor for a year, or for about eight months after the contracts were let, but we had evidence of his having been interested from the outset, evidence that the bids were made up in his house, and evidence of his connection with the matter in various ways. These three others, Peck, Miner, and John W. Dorsey, were the bidders. After Stephen W. Dorsey went out of the Senate he promptly became directly interested in a considerable portion of the routes. That was admitted. Peck was Dorsey's brother-in-law. Miner we had reason to believe had been his business associate in Ohio, but I think that was probably an error. Now, let me take up these routes and show you how they run along. The route from Kearney to Kent was let as 125 miles long and they were to perform the service, one trip per week, in 60 hours; that is about 2.08 miles per hour. The contract price was \$868 a year. Within three months after the contract took effect there was a small increase made of about \$112. Then, in less than a year after the contract took effect there was an increase of \$3,322, and that was made upon an affidavit which we thought was abundantly proved to have been false.

By the CHAIRMAN :

Q. Was that last increase made after Senator Dorsey became interested?—A. This was on the route from Kearney to Kent. Stephen W. Dorsey did not become interested in all the routes of the combination. The combination had 134 routes. We put 19 of them into the indictment. Stephen W. Dorsey became interested in only certain of the routes. Certain others passed to Henry M. Vaile. The parties interested in all the routes were Peck, John W. Dorsey, Miner, and Vaile, Vaile being an old mail contractor and the only real mail contractor in the party, the others being speculators in mail contracts. The next route from Vermillion to Sioux Falls was let at \$398, and in less than a year there was something over \$5,000 added to it; so that a route which at a public letting was let for \$398, one trip a week, was run up to five trips a week, and from $3\frac{1}{2}$ miles an hour was carried up to five miles an hour, and for this difference of $1\frac{1}{2}$ miles an hour the pay was increased to \$3,680. The pay on this route was run up from \$398 to over \$6,000. On the route from Bismarck to Tongue River the original contract price was \$2,350, and the pay on that route was run up within a year to \$70,000. There was some justification for a reasonable increase on that route as Dakota was developing very rapidly and there was considerable increase of business. Then take the route from White River to Rawlins. That was originally let at \$1,700, and within a year it was run up to \$13,000 or \$14,000, within two years, to nearly \$32,000. The contract on the route from Pueblo to Rosita was let originally for \$388; within a year it was run up to \$7,700, the distance being only 49 miles. The route from Saint Charles to Greenhorn, 35 miles, was let

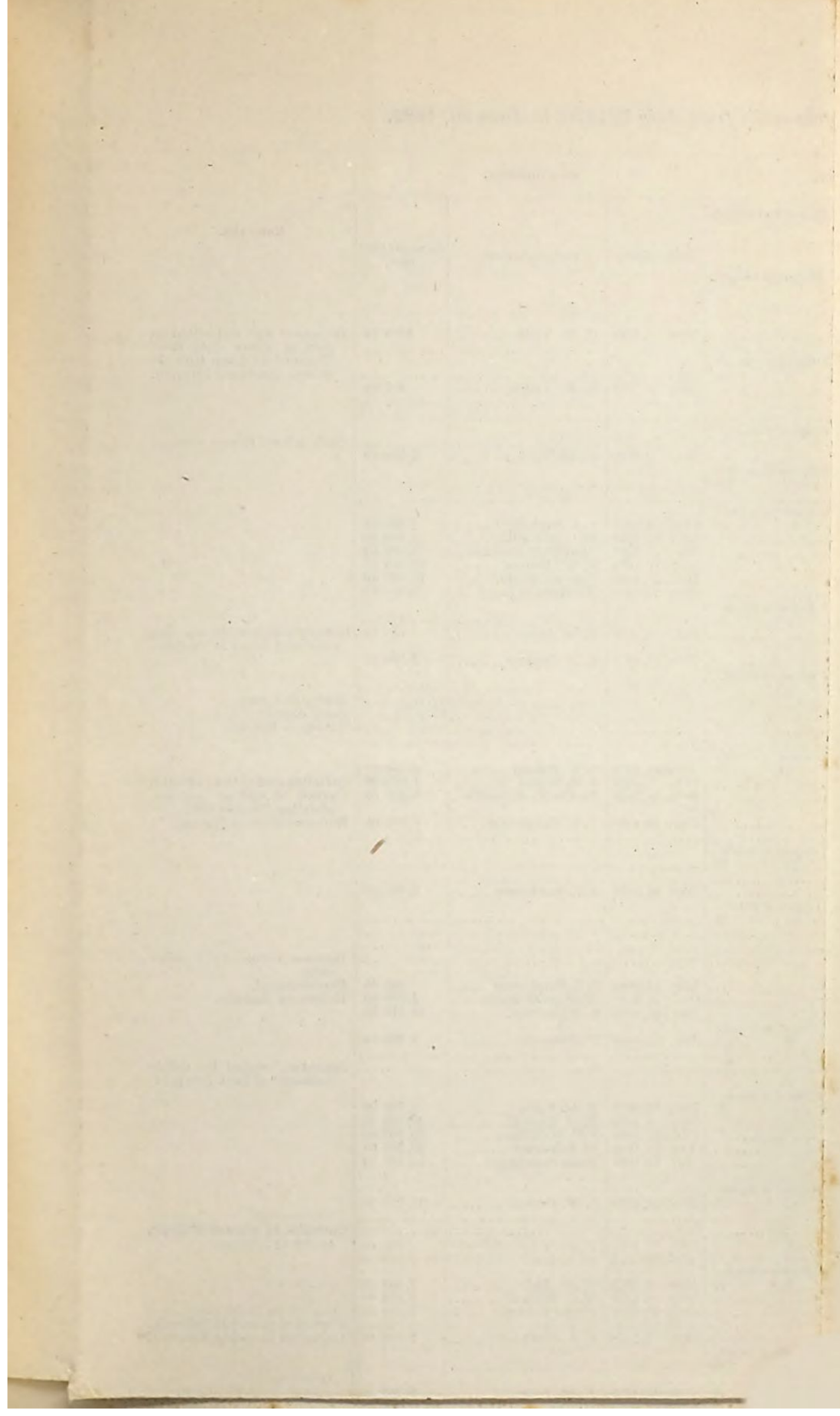
originally for \$548, and was run up within about a year to nearly \$4,000. The route from Trinidad to Madison, 45 miles long, was originally let for \$338, and within a year was run up to over \$4,000. The route from Garland to Parrott City, 288 miles, was let originally for \$2,745, and within a year it was run up to \$13,000, and within two years to over \$31,000. The route from Saguache to Lake City was let originally for \$3,426; within a few months it was run up to \$15,000. That was the route in which Sanderson was interested, and in which he took all the money. The route from Ouray to Los Pinos was let originally for \$348, and there was never any increase. The route from Silverton to Parrott City was let for \$1,488, and within a year it was increased to \$15,000. The route from Mineral Park to Pioche was let for \$2,982, and within six months it was run up to over \$20,000, and in about a year to over \$49,000; then it was put down and then it was put up again. The route from Tres Alamos to Clifton was let for \$1,568, and within a year was run up to \$13,000, and within eighteen months it was run up to \$27,000. The route from Toquerville to Adairville was let for \$1,168, and within a year it was run up to about \$20,000. The route from Eugene City to Bridge Creek was let for \$2,468, and it was run up within a year to over \$18,000. The route from The Dalles to Baker City was let at \$8,288, and within a year it was run up to over \$60,000. The route from Canyon City to Camp McDermott was let for \$2,888; in six months it was run up to \$16,000, and within a year and a half to over \$50,000. The route from Julian to Colton was let for \$1,188 and was run up within a year to \$8,000. The route from Redding to Alturas, California, was let for \$5,988; within six months it was run up to \$30,000 and within two years to about \$40,000.

These were 19 of the routes belonging to the combination, but there were 134 routes as to which similar things were done.

By the CHAIRMAN:

Q. Were those the routes upon which the indictments were based in the Dorsey-Brady case?—A. Yes. These increases were made upon affidavits as to the number of men and horses which were being used on the routes and which would be required for the increased and expedited service; which affidavits were shown by abundant evidence to have been utterly false either in one respect or in both. Then, too, there were bogus petitions gotten up, and everything of that sort. There were all sorts of little frauds in connection with the business. They were routes as to every one of which, except the route from Bismarck to Tongue River, the parties had made sub-contracts, and the work was being done by men who were being paid very much less than the Government was paying the contractors, and in several of the cases the routes were being run and the mails carried, before these large amounts were allowed for increase of speed, by the carriers themselves, for their own convenience, at a rate as quick or even quicker than that at which the Government was undertaking to have them carried under this costly expedition. There was one case, at least, in which the sub-contractor who carried the mail carried it on the expedited time and never knew that there had been any order of expedition, but was doing the work for his original pay, although there was a provision in his contract that he was to get 40 per cent. of any increase that might be allowed, and after he came here, at the time of the trial, he began a suit to recover the money.

Now, let me show you the revenue derived from these important routes. On the route from Kearney to Kent, where the original pay



Statement of nineteen contracts between the United States and John W. Dorsey, John R. Miner, and John M. Peck (under advertisement of November 1, 1877), dated March 15, 1878, to carry the mails from July 1, 1878, to June 30, 1882.

No. of route.	Termini.			Contractor.	Specifications of original contract.					Modifications of contract.										Total.		Oath for expedition.				Subcontracts.			Remarks.																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					
	From—	To—	State.		Length of route.	Hours.	Miles per hour.	Trips per week.	Contract price.	Date of order.	To take effect.	Increase and expedition.					Decrease and curtailments.					Date of jurat.	Original schedule.		Expedited sched- ule.		Date filed.	Subcontractor.		Subcontract pay.																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																				
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34149	Kearney	Kent	Nebraska	John M. Peck	125	60	2.08+	1	\$868 00	Sept. 24, 1878 July 10, 1879	July 1, 1878 Aug. 1, 1879	15			2	\$112 24 1,122 41																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		</

RECAPITULATION.

	Miles.	Pay.
Original	2,796	\$41,135 00
Increase	89	538,134 55
Decrease	2,885	579,269 55
Total	2,685	448,670 90

was only \$868, the entire amount of revenue from all the post-offices on that route was \$2,348.22. Kearney was a railroad station and got a large portion of its mail revenues from other sources than this route. The other offices on the route earned in a year only \$227; yet the contract price was carried up from \$868 to \$4,302. The original price on the route from Vermillion to Sioux Falls was carried up from \$398 to \$6,133. The entire receipts of offices dependent upon the route were \$261.51, and after the expedition of the service the receipts fell off \$20! The price on the route from Bismarck to Tongue River (where there was, however, a rapid development going on) was run up from \$2,350 to \$70,000. Excluding the Bismarck office, which was also on other mail routes, the entire receipts of the offices on this route, and dependent upon it, were \$710.75. On the route from White River to Rawlins the pay was run up from \$1,700 to \$31,981. The entire amount of the receipts of all the offices on the route, including Rawlins (which was an important station on the Union Pacific road, and, therefore, not dependent upon this route) was \$1,245.43, and all the offices on the route other than Rawlins produced only \$79. The pay on the route from Pueblo to Rosita was run up from \$388 to \$8,148. Pueblo is a large town on the railroad, fed by six other routes, and the entire emoluments of the offices on this route were only \$6,621, leaving only \$2,179, excluding Pueblo. The pay on the route from Saint Charles to Greenborn was run up from \$548 to \$3,945.60. The emoluments of all the offices on the route amounted to a little over \$5,500, and the emoluments of the offices dependent on the route amounted to \$60. On the Mineral Park and Pioche route the original pay was \$2,982, which was run up to \$22,300, and afterwards to about \$50,000. The emoluments of all the offices on the route were but \$761, which after the expedition ran down to \$597. It afterwards recovered to \$653, but never got so high as it was originally. There was a regulation requiring each postmaster to state in his return how many bags of mail left his office on any given day, so that the contractor should not have a chance to cheat by taking just a day longer than the time allowed, say by carrying the mail in 48 hours instead of in 24 hours. In order to obviate that, the Department required that there should be a record to show the date of the mails leaving the offices. The postmasters on this route, in their innocence, did not suppose there could be anybody in Washington who thought that there were really *bags* of mail matter passing over the route; so, instead of making a return of bags, they went to work and counted the letters and papers, and they made reports showing the entire number that had passed during 70 or 80 days, and it appeared that for 39 days there did not pass a letter or a paper over that route on which the Government was paying \$40,000 or \$50,000 for carrying the mail.

The CHAIRMAN. For carrying the bags, you mean.

Mr. WOODWARD. I think there were two or three letters in that period, but during 20 days there were none.

Mr. BLISS. I will put into the record at this point these two tabular statements, one showing the contracts and their modifications on these nineteen routes, and the other the revenues from the post-offices on those routes:

Statement comparing the net revenues on nineteen post routes let to Dorsey, Miner, and Peck, with contractor's pay before and after expedition.

Route number.	Termini.			Original contractor's pay.	Pay after expedition.	Net revenues year ended June 30, 1879.		Net revenues year ended June 30, 1880.		Net revenues year ended June 30, 1881.		Remarks.
	From—	To—	State.			Includ- ing all offices.	Exclud- ing cer- tain of- fices.	Includ- ing all offices.	Exclud- ing cer- tain of- fices.	Includ- ing all offices.	Exclud- ing cer- tain of- fices.	
34149	Kearney	Kent.....	Nebraska..	\$868 00	\$4,302 65	\$2,348 32	\$227 48	\$2,785 96	\$401 51	\$2,874 55	\$513 84	Excludes Kearney, supplied by railroad.
35015	Vermillion	Sioux Falls	Dakota	398 00	6,133 50	3,432 81	261 51	4,797 77	420 09	4,258 65	240 52	Excludes Vermillion and Sioux Falls, supplied by railroad.
35051	Bismarck	Tongue River	do	2,350 00	70,000 00	3,086 30	710 75	5,199 97	1,103 24	3,987 93	1,414 54	Excludes Bismarck, supplied by railroad.
38113	White River	Rawlins	Colorado ..	1,700 00	31,981 25	1,245 43	79 89	1,592 07	305 29	1,724 14	300 51	Excludes Rawlins, supplied by railroad.
38134	Pueblo	Rosita	do	388 00	8,148 00	6,621 65	2,179 77	9,328 90	2,932 41	12,610 75	1,572 49	Excludes Pueblo, supplied by railroad.
38135	St. Charles	Greenhorn	do	548 00	3,945 60	5,534 23	60 42	7,827 79	172 33	11,213 19	175 43	Do.
38140	Trinidad	Madison, N. Mex	do	338 00	4,290 30	3,718 18	168 09	3,530 85	120 66	3,523 11	137 35	Excludes Trinidad, supplied by railroad.
38145	Garland	Parrott City	do	2,745 00	31,343 76	402 26	78 05	935 82	244 68	3,855 21	262 15	Excludes all offices otherwise supplied.
38150	Saguache	Lake City	do	3,426 00	8,808 70	1,226 88	78 96	915 43	144 49	1,130 02	47 36	Do.
38152	Ouray	Los Pinos	do	348 00	348 00	964 79	131 40	807 35	159 66	2,587 81	157 07	Excludes Ouray. No expedition; route discontinued August 15, 1880.
38156	Silverton	Parrott City	do	1,488 00	14,870 01	984 48	83 18	2,271 14	185 36	5,670 87	179 13	Excludes Silverton, Animas City, Durango, and Parrott City, otherwise supplied.
40104	Mineral Park	Pioche, Nev	Arizona	2,982 00	22,300 00	761 39	761 39	597 00	597 00	653 67	653 67	Includes all offices located on route.
40113	Tres Alamos	Clifton	do	1,568 00	27,913 59	403 42	403 42	513 41	513 41	789 12	789 12	Do.
41119	Toquerville	Adairville	Utah	1,168 00	19,311 33	1,586 47	767 76	1,042 57	386 50	1,094 07	497 46	Excludes Toquerville, Virgin City, and Kanab, otherwise supplied.
44140	Eugene City	Bridge Creek	Oregon	2,468 00	21,460 89	1,735 85	284 10	1,903 73	194 49	1,725 30	184 95	Excludes Eugene City and Primeville, otherwise supplied.
44155	The Dalles	Baker City	do	8,288 00	72,520 00	3,716 91	629 62	5,638 35	685 48	6,257 65	601 64	Excludes The Dalles, Baker City, and Canyon City, otherwise supplied.
44160	Canyon City	Camp McDermott	do	2,888 00	50,166 66	681 14	681 14	1,370 24	1,370 24	935 42	935 42	Includes all offices located on route.
46132	Julian	Colton	California ..	1,188 00	8,910 00	524 03	524 03	399 52	399 52	479 75	479 75	Do.
46247	Redding	Alturas	do	5,988 00	41,916 66	2,679 90	2,168 72	3,484 27	2,831 83	3,224 67	2,480 16	Excludes Redding.
Total				41,135 00	448,670 90	41,654 44	10,299 68	54,942 14	13,167 79	68,595 88	11,622 36	

By Mr. MILLIKEN :

Q. You showed the state of things which you have stated here at the trial, I suppose?—A. Yes, sir.

Q. And the jury found a verdict of acquittal?—A. The jury the first time found that M. C. Rerdell, who was the clerk of these parties, employed on a salary, was guilty, and they found that John R. Miner, one of these contractors, was guilty. They could not agree that Mr. Brady was guilty. They could not agree that John W. Dorsey, who was in the business as much as Miner was, except that he had not as large a pecuniary interest, was guilty. They could not agree that Peck, or that Vaile, who was a mail contractor, and who got away with a good deal of swag, was guilty.

Now we selected these nineteen routes of this combination as the basis of the indictments. I might have put a dozen more routes into the indictment, but I thought when I had got these nineteen I had got specimens of all these variegated frauds, but you would be amused if I should go through the record and refresh my memory and give you a little details of the different kinds of minor frauds that were connected with the business.

Then we proved also that they had sent out agents on the routes to sublet them, and we proved the statements of those agents and parties out there that there would be an increase of pay; we proved their statements that there would be an increase of pay on a given route to a certain sum within a given time, and so much within another given period; these statements being made as inducements to the subcontractors to take the subcontracts, because, under those contracts, the subcontractors were to have 40 per cent. of the increases that might be allowed. We proved also that in three successive cases the increases were made precisely according to the predictions made by these agents. We put on the stand the agents who had made the statements, we put on the stand the men who said they had made the subcontracts with that understanding, and we proved that the orders of increase were made precisely as those agents had predicted, except that in one case where the increase was promised in a year they got it in eight months.

Q. You proved all that, and yet the jury did not convict?—A. No sir; they did not convict.

Q. And Mr. Cook thinks there is nothing so high-toned as a Washington jury?—A. Except a Washington lawyer. Then as to one of those routes, let me say that it appeared in the evidence that these agents who were sent out said to one of the parties that they thought they would get the pay on that route increased up to \$30,000. The man replied, "That is absurd; you can't do anything of the kind; I can carry all the mail that goes over this route in my hat." And we actually proved that in point of fact he did go over the mountain from day to day carrying the entire mail in the leg of his boot!

By Mr. HEMPHILL :

Q. How much did it cost the Government to have that mail carried—\$30,000?—A. Oh, \$50,000; that gave the speculators a profit of \$30,000.

Q. Yet this wise Washington jury thought that was a legitimate transaction?—A. It seems so. However, I do not care to pitch into anybody. There was a distinguished judge of our court of appeals in New York who said that when a lawyer got beaten in court there was one of two courses open to him, but he had no right to adopt both. One course was to take an appeal, and the other was to go down to the tavern and abuse the court. I have my own opinion on this sub-

ject, and it will probably crop out some time what was done. But we selected these routes for the reasons I have stated. If we had taken any one of these routes and gone along with it by an indictment for conspiracy, we should never have succeeded in establishing any conspiracy, and we had to satisfy the court of the existence of a conspiracy before we could get this additional evidence in. But by taking this variegation of frauds we got the benefit of that, and we got the benefit also of Walsh's testimony as to the transactions which had been alleged in the Prescott and Santa Fé route, but the jury did not believe Mr. Walsh, either. I took the idea of prosecuting the case in this way very largely from having come fresh from a knowledge (though not as counsel) of the way in which Tweed was prosecuted and convicted in New York. They tried him on one fraudulent warrant and on another, separately, and could never accomplish anything, but when they went into court with an indictment based on a combination of, I think, eighty-nine of these fraudulent warrants, the proof became overwhelming and carried absolute conviction to the minds of the jury.

By Mr. MILLIKEN :

Q. Did Mr. Cook or Mr. Gibson protest against your taking up this Dorsey case?—A. Not in the least. They encouraged it. They produced it at Elberon as the case that was to be taken up next after the Prescott and Santa Fé route. My letter of the 1st of October, addressed to Colonel Cook, which I have put into your record, relates to this Dorsey combination, and the papers that Colonel Cook was himself calling for related to that case. As late as December 21, 1881, he wrote to Mr. Woodward, for the reports upon the Dorsey case. There never was an intimation from the beginning to the end of Mr. Cook's connection with the cases that he had any question in his mind as to proceeding with the Dorsey routes, until in his letter of resignation he said, "Whether the strongest routes have been selected remains to be seen." There never was a dissent on the part of anybody. Colonel Cook and Mr. Gibson did want the Prescott and Santa Fé case to go ahead, and I did not want that case to ahead. There was a transaction at one time which looked very much like an attempt on the part of Colonel Cook and Mr. Gibson to use the Department as a means of pushing things along to a certain point, but I take all the responsibility and, as I think, all the glory of the selection of the Dorsey case as a greatly stronger case than any of the others.

Mr. Gibson comes here and tells you that he wanted the Santa Fé and Corpus Christi case, among others, to be followed up. Now, let us see what that case was.

By the CHAIRMAN:

Q. Before you proceed with that, let me ask you what was the evidence adduced in the trial which connected ex-Senator Dorsey with this combination?—A. Ex-Senator Dorsey was admittedly interested in the contracts—he became interested within a month after he went out of the Senate.

Q. Was that admitted by him?—A. Yes, sir; certainly.

Q. To what extent was he interested?—A. He owned them all, except what went to Vaile. Vaile and he divided up. Vaile and Miner went together, taking part, and Stephen W. Dorsey took the rest.

Q. Was that the arrangement as to the whole of these nineteen routes?—A. Oh, yes; and it extended away beyond them. The bids, in the first place, were all prepared at the house of Stephen W. Dorsey

while he was Senator, and he furnished the bondsmen to a considerable extent.

Q. Who were the bondsmen?—A. D. W. C. Wheeler was one. There was a variety of bondsmen, some good and some not good. S. M. Hoyt was one. Those were on the bids.

Q. Were any of those bondsmen unreliable parties?—A. Mr. Wheeler subsequently, and not very long subsequently, became bankrupt, but I think at the time he became a bondsman he was considered good, and I think he so considered himself. Mr. Hoyt was not so, I think.

Q. Was Mr. Wheeler on all the bids?—A. I think not; but, about the bonds, I am liable to get a little mixed, because I know there were bondsmen on the bids and bondsmen on the contracts.

Q. I am speaking about the bondsmen on whom the Government could have recourse in case of the failure of the contractors.—A. Both the bondsmen on the bids and the bondsmen on the contracts would probably be liable, although that is a matter as to which there is some dispute. Ordinarily, when the Department seeks to hold anybody, I think it proceeds upon the bond given upon the bid.

Q. Was there any evidence on the trial as to the character of the bondsmen?—A. No, sir; we did not go into that. In addition to what I have stated there was evidence connecting Dorsey with the getting up of the bids at his house. Mr. Dorsey also furnished the money which started people out there to go over the routes and get up petitions to have the service put on.

Q. To find good places to have expedition?—A. Not exactly; he claimed that he was making loans to those parties. Mr. Dorsey was, I believe, really concerned in the matter right along while he was in the Senate. The business was done with a boldness which might be regarded as, to some extent, implying innocence. Letters were written on United States Senate paper, and statements were made by these agents who were sent out that Senator Dorsey was interested. For instance, when some of the parties out there said, "You cannot get any expedition on this route," the answer was made, "Oh, you never had a contractor before who was in the United States Senate." There was a great mass of evidence in detail which we thought showed clearly Senator Dorsey's connection with the business while he was in the Senate. It was claimed that he had no formal connection with the business, but that he was helping relatives and friends, and he certainly did lots of things that were very obliging.

Now, it has been claimed that among the routes that we ought to have proceeded with was that from San Antonio to Corpus Christi. That is the route in connection with which Mr. Kellogg comes into the matter. The details of that route appear in the document containing the inspector's reports, which you have called for, on page 146. The route was 148 miles long. The original bid was \$2,733 for two trips a week, on 40 hours time. On the 26th of August, 1878, before service actually commenced—because on that route the service was not commenced on July 1st, the ordinary time of commencing service—on the 26th of August, before the service was actually commenced, the pay was increased to \$8,199. On the 1st of August, 1879, a year later, the time was decreased from 40 to 29½ hours, and in consideration of that \$20,204 was allowed; making the total pay \$28,403 on a contract on which the original bid was \$2,733. Then there was a subcontract to a man named Ellis, which was subsequently rescinded and a new contract made, by which he got only \$12,750, but that was subsequently increased to \$15,500. I think that gives you, in brief, the history of the case. In that case

the affidavit was false, in the sense that the increase of service required in fact no increase of men or animals, because for local reasons, for the business of carrying passengers, they were using just as many men and horses before the increase as afterwards. That is the history of that route from San Antonio to Corpus Christi as it appeared before us at that time. Mr. Gibson says that we ought to have taken up that route. Now, a year or more subsequent to that time we did get an indictment upon that route; and Mr. Price, there being a twist around him, came forward and gave us some evidence which made our case a much stronger one, but I am treating it now from the point of view from which we regarded it at the time when we came in and had to select the cases with which we should proceed, and I have stated all the evidence we had at that time. We could not get this Mr. Ellis, who is spoken of as the subcontractor there, and who the inspectors said they thought could give us considerable evidence. Finally, we did find Ellis out in the interior of Texas on a cattle ranch somewhere, and we sent for him and brought him here, and had a post-office inspector come with him for fear he should get away. He did give us some evidence in the case, but until we got Ellis we could not have got any indictment, and when we did get his evidence we got an indictment by the same grand jury that indicted in the Dorsey case.

The route from Phoenix to Prescott was let as 140 miles long, a trip once a week, on 106 hours' time; price, \$680. On the 2d of December, 1878, there was an increase to two trips, the time was reduced to forty-eight hours, and the pay was increased \$8,170, the increase being made in gross violation of law. There was only one intermediate office on that route, and there was an entirely different route on which there was mail service, I think, six days in the week between Phoenix and Prescott. On the 11th of June, 1879, four trips were added, and \$11,800 additional pay was allowed, and the time was reduced to thirty-two hours, and \$11,990 was allowed for expedition. So that this route which was originally let for \$680 a year was thus run up to over \$32,000. There was at that time daily mail service by the other route. This route being, in fact, only 104 miles long, there was paid \$27,880.32 to get a slight gain in speed. The speed at which the service was let was 1.08 miles an hour. You could not walk a horse so slowly as that. Then the speed was increased to 3.25 miles per hour, and it would be pretty difficult for a horse to walk, even as slowly as that; yet for that increase of speed there was paid \$27,880.

I have here a memorandum made by the Second Assistant Postmaster-General as to that route, without any suggestion from me or anything of the kind. After stating the case, he goes into the matter and figures it out, and he says:

The original schedule of ninety-six hours required a departure from each terminus on every Wednesday at 6 a. m. Therefore to comply with the schedule would require at least two carriers instead of one, as given in the oath.

The affidavit of increase was based upon the idea that there was only one carrier originally employed. The second assistant goes into a calculation on this point and he shows that, on the face of the thing, the affidavits on which increase was allowed could not by any possibility have been true, and then he makes this recapitulation:

Allowance in first part of order No. 5270	\$11,800 00
Deduct that portion allowed for four additional trips.....	2,720 00
Overpayment	<u>9,080 00</u>

Allowance in first part of order No. 5270	\$11,990 32
Deduct proper allowance on the basis of \$4,760 per annum for seven times a week service	2,763 87
Overpayment	9,226 45
Total overpayment per annum	18,306 45

The overpayment per annum by order No. 10520 was \$6,810 from December 16, 1876, to June 15, 1870.

Thus it appears that the total overpayment was over \$18,000, and the committee will remember that that service started at \$680 per annum.

By the CHAIRMAN:

Q. Who were the contractors?—A. A man named Griffith, a stage-driver for Kerens—the Kerens combination.

Now, Mr. Gibson says the San Antonio and Corpus Christi route, to which I have called attention, ought to have been taken up and pushed along. I have here the “opinion” of Mr. Gibson, in which he says as to the Phoenix and Prescott route, of which I have just been speaking:

There is no proof of fraud in this case. There are *suspicious* circumstances, such as the advertisement of the route as 140 miles long, while in reality it is only 108 miles, and the bid of \$680 and the subsequent raising to \$32,640; but, in the first instance—the advertisement of the distance as greater than it really is—the contractor cannot be held responsible for the laches of the Post-Office Department; and, in the second place, while the enormous increase of price is suspicious, still the Department cannot base its action upon mere suspicion. There must be *absolute proof* of fraud, either in obtaining the increase or in performing the service after the increase has been obtained. In this case there is, as remarked above, no proof whatever of fraud. The service is, according to all the evidence, capitally performed, the contractor employing first-class stock and equipments, and making faster time by several hours than the terms of his contract calls for. The necessity of the present schedule time is admitted by all who speak or testify in regard to this route. There have been large reductions already made in the service leading to and from Prescott, and I don't believe the Department would be justified, either by the evidence or public policy, in making any change in this route. Inspector Sharpe does not recommend that the old schedule be restored, but, on the contrary, says it would be unwise to do so. The schedule cannot legally be changed unless proof of fraud is clear and positive. There can be no half-way work; it must be either left where it is or put back to the original schedule. The latter, in my judgment, as before stated, would be illegal, and, of course, unwise public policy.

J. H. R.

By Mr. MILLIKEN:

Q. What did you do in regard to that route?—A. Mr. Woodward having heard, in a way that he will explain to you, that there had been an undertaking on Gibson's part to protect the contractor on that route, went to the papers to see if there was any deviltry there, and he came down to me with those papers of which I had already spoken, and, as I told you, if I had had any confidence in Mr. A. M. Gibson, special counsel, before, it disappeared from that time. What I did was this: This knowledge came to us in December or January, when we were in the midst of the Dorsey case. I wrote a letter to the Postmaster-General, in which I insisted that he should stop the pay of Griffith on that route, and the Department is now holding on to \$25,000 or \$30,000 which would have been obtained by the contractor if we had not interfered; and as to the letter which I wrote on that occasion, I am credibly informed that any man who has sufficient influence to get that letter withdrawn can have \$5,000 for doing it.

Q. Who is interested in having it withdrawn?—A. Mr. William M. Griffith, the contractor, who was a stage-driver for Kerens.

By the CHAIRMAN:

Q. The withdrawal of your letter would imply the payment of the contractor, would it?—A. Well, I suppose they think that if that letter is out of the way there will be one obstacle out of the way. This memorandum, from which I have read an extract, was prepared in connection with the recommendation of Judge Gresham that a suit should be commenced to recover from the contractor upon that route, not only the money that has been stopped, but an additional amount, the overpayments already made.

Q. What is the nature of your information as to the opinion of those parties as to the desirability of having that letter withdrawn?—A. Simply that a gentleman came to me and asked me about the letter, and finally said that if he could get the letter withdrawn he could get \$5,000.

Q. What is that gentleman's name?—A. I do not think I have any right to give you the name.

Q. Was he attorney for the contractor?—A. I presume he was; I do not know.

Q. What reason did he assign?—A. Simply that he thought that if that letter was out of the way they could get their pay. I did not know but what I might be like the Vicksburgh quartermaster who asked to be recalled, and when the authorities did not recall him he asked again to be recalled. Finally they asked to be informed why he wanted to be recalled, and he said he did not know how much temptation he could stand; that certain parties had offered him \$20,000, and if they should make it \$25,000 he was not certain but he might accept it. [Laughter.] The result in this case was that I went to the Second Assistant Postmaster-General and told him that if that letter of mine was ever withdrawn he might conclude that somebody had made \$5,000 out of the withdrawal.

Q. Did you understand that what this gentleman said was an offer of \$5,000 to you?—A. No, sir.

Q. To whom, then?—A. The offer was to this gentleman himself, to induce him to get the letter withdrawn.

Q. You did not understand that the offer was to pay you \$5,000?—A. No, sir.

Q. Who was to get it?—A. This gentleman who told me about it; he was a lawyer; he came to press me about it; I told him I could not do anything about it, and finally I asked, "What difference does it make to you?" And then he said, "Well, if I could get that letter removed I could make \$5,000."

By Mr. MILLIKEN:

Q. He simply wanted you to facilitate a prosperous transaction on his part?—A. Yes, sir; I had already refused, and he had given the thing up. I had told him that I could not do anything about it, and then I turned upon him and asked him why he was interested, and he said what I have stated.

By the CHAIRMAN:

Q. He wanted you to do him an act of kindness?—A. Well, he did not say anything about that at all after I told him I would not do it.

Now, I have given you a statement of the case of these two routes, one of which Mr. Gibson says ought to have been prosecuted immediately, and as to the other of which he reported that there was no evidence of fraud.

Q. Is this Phoenix and Prescott route the one where you say the speed was expedited from one mile and a fraction to three miles and a fraction, leaving it still below the minimum of the rates of an ordinary horse's walk?—A. Yes, sir.

Q. Does the report state something about the speed?—A. No, sir; I think the report simply states that the contractor is doing the service at a higher rate of speed than is called for. The route from Phoenix to Prescott had developed a good deal, and the stages were going through and carrying the mail at a faster rate than the contract required. On the subsequent reletting the price, though the route was extended 16 or 18 miles further south, it was relet for \$6,000 or \$8,000 by public bidding.

Mr. Gibson, in his capacity as a lawyer, stated here that productiveness had nothing to do with the question of price; that the law about productiveness was an old law dating away back, and had been repealed. The difficulty about that is that Judge Wylie differed with Mr. Gibson on that point, and ruled in that evidence as to productiveness, and there is one stage in the case where you will find in the record about 20 pages of tabular matter put in solely as to productiveness, after elaborate argument by counsel.

Q. So that productiveness did have something to do with it?—A. Yes.

There is one other thing that I want to say. I want to call attention to the fact that Mr. Cook states that Mr. Cole, who got that \$4,000 from Dorsey, was his (Cook's) partner only in civil cases, and that he had nothing to do with criminal cases, yet Mr. Cook, on page 115 of your record, expressly testifies that Mr. Cole had access to the safe in which he says were the copies of our papers. Of course I do not mean to say that Mr. Cole ever saw them; I presume he did not; but Mr. Cook says that Mr. Cole had access to that safe.

One other thing I ought to say. There has been some reference made to the fact that Mr. John L. French was included in the information, and that his name does not appear subsequently in any of the indictments. When we went before the grand jury in the Dorsey case we included Mr. French among the persons we were endeavoring to have indicted, and the grand jury declined to indict French, and I must say that I do not think that was unjustifiable action on their part. Mr. French carried out many of the orders of Brady, and made orders in pursuance of Brady's directions, but I am bound to say that while it was evidence that would have justified the indictment of Mr. French, at the same time all that we showed him to have done was consistent with the conduct of a subordinate carrying out, in good faith, the orders of his superior. I mention that because the disappearance of the name of Mr. French from the indictment has attracted attention, and ought to be explained.

One other thing, and then I have done, so far as regards these details. It was stated by Mr. Cook twice over that the bogus bond cases in the police court might have been disposed of very quickly, and that they were finally disposed of in my absence. The records of the police court are not very full, but the records of the press show that the complaints were filed on the 7th of January; that on the 11th of January Mr. Bliss and Mr. Cook appeared and represented the Government, Mr. Bliss making the opening; that Mr. Tidball and Mr. Woodward were examined (the examination, I should say, was begun each day after Judge Snell had got through with his current business); that on the 11th of January Mr. Bliss and Mr. Cook were present; that on

the 13th Mr. Bliss and Mr. Cook were present, and that there was argument and the examination of witnesses; that on the 17th Mr. Bliss and Mr. Cook and Mr. Gibson were present, and that on the 19th witnesses failed; that on the 20th Mr. Bliss and Mr. Gibson were present, and Mr. Gibson testified; that on the 24th there was a further hearing, Mr. Cook and Mr. Gibson being the only persons mentioned as present to represent the Government, and, without looking the matter up, I presume that is true, and that it was on a Monday, before I had got back from New York; that on the 25th Mr. Bliss was present for the Government; that on the 26th Mr. Bliss was present; that on the 27th Mr. Bliss was present; that on the 31st Mr. Bliss was present; that on February 1 Mr. Bliss and Mr. Cook were present; that on the 27th the defense opened; that on the 2d of February Mr. Bliss and Mr. Cook were present, and that on the 3d of February there was argument; that on the 7th of February Mr. Cook and Mr. Gibson represented the Government; that on the 9th of February the case was continued until the 14th on account of a death in the family of Colonel Bliss; that on February 14 Mr. Bliss, Mr. Cook, and Mr. Gibson appeared for the Government, and, after consultation, the hearing was adjourned; that on February 15 Mr. Bliss opened the argument, followed by Mr. Hine and Mr. Totten for the defense; that on February 16 there was additional argument, and the decision of Judge Snell that there was sufficient evidence to hold the defendants for the grand jury. Now, whether I was present or not on the 16th, when Judge Snell gave his decision, I cannot say, but you see that the record shows that I made an argument on the 15th; that I was followed by counsel on the other side, and that on the next day the defendants were held by the judge. I think, therefore, that this record disposes of the intimation of Mr. Cook and Mr. Gibson that, I being absent, they took advantage of my absence to shorten things up, and get the case disposed of.

Mr. Cook testifies that in the fall of 1881 he had an interview in New York with Mr. Price, who told him that he did not know anything wrong about this route, which Mr. Gibson says we ought to have taken up and proceeded upon at that time, and he lugs in the information which we obtained from Price a year later, after Cook & Co. had gone out of the case, and assigns that as a reason why we ought to have proceeded with the case a year earlier, although by Mr. Cook's own testimony he had been told by Mr. Price that he had no knowledge of anything wrong about it.

One other thing. It may have been inferred from my testimony when I was before the committee the last time, that Mr. Bosler's clerk was present at the time the books were examined. There was a gentleman present when Mr. Bosler first brought the books there, but, not having his check-book, there was no examination made that amounted to anything, and subsequently, when he did bring the books, there was nobody present. When I speak of this gentleman, Mr. Bosler's clerk, that is rather an assumption of mine than anything else. I do not remember just who the man was or what his position was.

It has been claimed before you that my employment in the star-route cases was of a political nature on account of my relation to General Arthur. I think that the letters written by me to Mr. James, which I have produced here, are perhaps sufficient to dispose of that proposition, but it is probably not improper for me in this connection to go into a little personal history. I had known General Garfield for a good while, and I had charge of the investigation in New York consequent upon the publication of the Morey letter, in which we did some pretty sharp work

in the courts just before the election. I was in constant correspondence with General Garfield in connection with that matter, and he was exceedingly grateful to me, and I received a most flattering letter from him upon that subject. General Garfield twice in March and April, or April and May, authorized the offer to me of the position of United States district attorney at New York. The first time the offer did not reach me, owing to some complications which arose here. The second time the offer did reach me and the position was declined. Now, consequent upon the publication of my testimony in this matter the other day there called upon me in New York Mr. Henry E. Knox, who was General Garfield's intimate friend at college, and, I think, his chum. Mr. Knox stated to me, what I had never known before, that early in April of that year he saw President Garfield and told him that from what he learned of these star-route cases, there was a bigger job on hand than he might suppose, and he thought it was necessary to have some other counsel in the cases than the people who were engaged—that he did not think they were the right men. He says that President Garfield asked him whom he would suggest, and that he (Mr. Knox) replied that he would suggest me. General Garfield concurred, and asked Mr. Knox to go to Mr. James and say so to him. This I never knew anything about, as I have said, until the information reached me through the publication of my testimony the other day; but I do know that Mr. James spoke to me about the matter early in July in a casual way, and that prior to that, as early, certainly, as May, Mr. Knox, when I met him on the cars, asked me if I had heard anything from Mr. James about the star-route cases. I told him I had not, and he did not pursue the subject. As Mr. James had been here already, and I did not think the matter of sufficient importance to justify bringing him back, I wrote him a letter, reciting what Mr. Knox had said, and asking Mr. James if he had any recollection on the subject, and in reply I have received from him this morning the following letter:

[Lincoln National Bank, East Forty-second street, opposite Grand Central depot, Thos. L. James, president, A. Van Santvoord, vice-president, J. H. B. Edgar, cashier.]

NEW YORK, *March 31, 1884.*

DEAR SIR: Referring to yours of the 28th, reciting the fact that Henry E. Knox, esq., of this city, in a conversation with President Garfield, which took place early in 1881, suggested your name as that of a proper person to take charge of the star route cases; that the President concurred, and that Mr. Knox communicated with me to this effect, I have to say that this is my recollection of what transpired.

Very truly yours,

THOS. L. JAMES.

The Honorable GEORGE BLISS.

Without concluding the examination of the witness, the committee adjourned.

WASHINGTON, *April 2, 1884.*

GEORGE BLISS recalled and further examined:

Mr. Chairman, I was interrupted yesterday when I was about to make a statement as to one of these tables I have presented here, and I desire simply to say that this table of revenues shows the following results on nineteen routes which were included in the Dorsey indictment. The original pay of the contractors on all those routes was \$41,135 a year. It was increased so that it became \$448,670.90. The revenues received

at all the offices on all those routes, whether dependent upon the route solely or upon other routes also, amounted in the first year to \$41,654.44; in the second year to \$54,942.14; and in the third year to \$68,595.88. The revenues from offices dependent solely upon the routes amounted in the first year to \$10,297.68; in the second year to \$13,168.29; and in the third year to \$11,622.36—actually diminishing during the third year.

I referred yesterday to a letter addressed by myself to the Attorney-General, and transmitted by the Attorney-General to Mr. Cook, calling for papers. I was unable to lay my hand upon a copy of the letter yesterday, but I have it here now. It is dated at the Post-Office Department, where my office then was, March 24, 1882, and is as follows:

POST-OFFICE DEPARTMENT,
Washington, D. C., March 24, 1882.

DEAR SIR: I hand you herewith copies of two letters from myself to Col. W. A. Cook, late special assistant attorney, and his reply to the first one of these letters. No reply has been received to the last one.

As Colonel Cook's relations to the Government in the star-route cases have ceased, I beg to suggest that he should be called upon to surrender all papers which he has relating to the cases, or which he received by reason of his former relations as counsel, and to state whether any copies have been made while they were in his possession, or to his knowledge, and that, if so, he return or account for the copies also.

As to the special papers referred to in my letter to Colonel Cook, there can be no doubt that they were in his possession. I believe they still are so, unless he has parted with them to some person not representing the Government. I have some reason to believe copies have been made of some papers belonging to the Government, but whether these are included or not I am unable to say.

Your obedient servant,

GEORGE BLISS,
Special United States Attorne

HON. BENJ. HARRIS BREWSTER,
Attorney-General.

By Mr. FYAN:

Q. What were those special papers that you referred to there?—A. I testified about that yesterday. They were the abstracts that Mr. Woodward had made up. In what I said in reference to the discharge of the detectives, I referred to a letter of the Attorney-General on the subject. I have the original letter here, and will read it:

DEPARTMENT OF JUSTICE,
Washington, January 14, 1882.

GENTLEMEN: As I have before said to you verbally, I now write to say that I desire that the expenses of prosecuting the star-route cases must be kept within restraint, and I desire that all extra outlays hereafter will be first submitted to me, and all that have been engaged in extra services may now be reported to me, so that I may know what has been done and is now doing in such extra service, and so that if I think them no longer required I may say so.

I am truly, &c.,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

To Messrs. BLISS & COOK,
For U. S.

Going back to the discharge of Mr. Gibson, I have come across a letter from the Attorney-General, which shows that my recollection was correct, and that Mr. Gibson's was not. It is dated February 2, 1882, and is as follows:

DEPARTMENT OF JUSTICE,
Washington, February 2, 1882.

MY DEAR COLONEL BLISS: Now, when Mr. Gibson's account is to be paid, I wish to talk with you about his further retention, and what it will be proper to detail him to do. Pray see me about that before you leave for the week.

Truly, yours,

BENJAMIN HARRIS BREWSTER.

When I first came into the cases there were certain reports current that there had been assurances of immunity given to different persons. My letter to Mr. James, which I have already put in here, refers to that matter; but I also heard other reports about it, and I addressed a letter to the Attorney-General, saying that I wished to know whether anything of that kind had been done. In reply I received a letter from Acting Attorney-General Phillips, which also I will read:

DEPARTMENT OF JUSTICE,
Washington, December 1, 1881.

DEAR SIR: The chief clerk of this Department tells me that there is no arrangement of the sort you mention, *i. e.*, that certain of the parties indicted or charged or otherwise concerned in these star-route matters shall, upon paying up what they owe in the civil cases against them, receive favor in the criminal cases that are now or may hereafter be pending against them. I know of no such arrangement, and have heard of none such. I will communicate your letter (copy) to Mr. Valentine with this reply. I make my reply broad enough to cover all cases of this class everywhere.

Very respectfully,

Acting Attorney-General.

Col. GEORGE BLISS,
The Arlington, City.

Now, Mr. Chairman, as a final reply to your original question as to what was done in the star-route cases, it may be well to give you a statement of the proceedings that were commenced. Besides the case against Dorsey, and the indictment found in June against Price and Brady, upon the routes from Monroe to Shreveport and from San Antonio to Corpus Christi, an indictment was found in the same month against Brady and George Meserole for conspiracy, the alleged fraud being perpetrated on the route from Gardner to Rosita; and also a second indictment against Meserole alone upon that route. Then there was an indictment against Brady and A. H. Brown for conspiracy, in connection with the route from Monument to River Bend. Then there were indictments against Price, and Brady, and Kellogg, which have been already referred to. Besides that there were six indictments against Lilley and two against Brott, which have been already referred to; one against John N. Minnix for perjury; one against C. H. Dickson for perjury; two against John W. Dorsey for perjury; one against John R. Miner for perjury; one against Kate M. Armstrong, James W. Donohue, William W. Jackson, A. E. Boone, and S. G. Cabell for conspiracy, the indictment being subsequently quashed as to Miss Armstrong; one against J. B. Henderson, Donohue, Jackson, Cabell, and Boone for conspiracy; one against W. W. Jackson for perjury; one against Donohue for perjury; one against Cabell for subornation of perjury; one against W. S. Barringer, A. E. Boone, and A. O. Buck for conspiracy; one against Boone and E. J. Sweet for same; one against Buck, Barringer, and Boone for same; one against Kate M. Armstrong for perjury (which was quashed); one against Meserole and Brady for conspiracy; one against Price and Brady for conspiracy; one against Brady for receiving a bribe; one against Kellogg, and one against Kellogg and Brady for conspiracy. Besides these, there were subsequently three other indictments found, of which I have no memorandum here. They were found after all these others, and on a subsequent set of bids. There came up from Mobile and its vicinity (I mention this because it may be of interest to you in connection with some other proceedings), there came up from Mobile two parties who had become sureties on bonds given on bids, and they were indicted for perjury and suborna-

tion of perjury. The facts were that within a month or so previous to the time of their going on these bonds, based on lands which they said were worth \$200,000 or \$300,000, one of these very men had been before the tax commissioners down there, and had sworn that the same lands were not worth over \$15,000 or \$16,000, and had got the valuation put down to that amount; and as to another there had been substantially the same proceeding. There was the record evidence that the land on which those men undertook to qualify as bondsmen had, by their own statement within a very short time previous, been valued at very much less. One of those gentlemen was, and I think still is, a United States commissioner.

By Mr. STEWART:

Q. Who drew those indictments?—A. My impression is that most of those indictments I drew. I think Mr. Ker drew nine of them. I think he drew those later ones against these Mobile parties, but whether the earlier ones against the bondsmen were drawn by him or not I cannot say. I know I drew some of them, and my impression is that I drew these, but I would not be certain.

Q. Were those cases prosecuted to conviction?—A. No, sir; as to the cases in which Boone was a party, he was used as a witness on the second trial of the Dorsey case, and that of course involved the necessity of *nolleing* as to Boone. As to the other defendants in those cases, the ground was taken that Boone having been relieved the others ought not to be proceeded against. That view I did not concur in. As to the Mobile indictments, I was and have been very strenuous in insisting that they should be proceeded with, but I have been overruled.

Q. Are they still pending?—A. They are still pending.

By the CHAIRMAN:

Q. Who has overruled you?—A. The Attorney-General.

Q. Upon what ground?—A. Well, not upon the ground that those cases should not be proceeded with, but on the ground that he did not want anything more done at present. This was after the last star-route trial. If you wish to know my opinion about it, the fact is that you gentlemen, or some gentlemen, had begun making considerable talk about expenses and so on, and I think the Attorney-General wanted to cry a halt on those; at any rate, that was my view.

By Mr. FYAN:

Q. What reasons did he give?—A. The Attorney-General simply said to me that he did not think it was desirable to proceed with any of those cases at that time.

Q. Did he give any reasons?—A. No, he did not. I ought to say, perhaps, that I think Mr. Merrick concurred with him. I think Mr. Merrick said that after the end of the Dorsey case, and with the Kellogg case in the condition in which it was, he did not think it was advisable to go on and try any cases of such minor importance as he thought these cases were.

Q. Then these reasons which you are giving here are a mere speculation of your own?—A. What?

Q. That we gentlemen, or some gentlemen, were crying out about the expense, and that therefore the Attorney-General wanted to halt?—A. Not entirely a speculation of my own.

Q. What do you base it on?—A. Not entirely a speculation of my own, because, while I would not undertake to say that at the time these

indictments were spoken of the Attorney-General said anything about the expense, he had at or about that time said to me that he desired that no further expense should be incurred, but that the matter should remain in abeyance for the present.

Q. But you went on to give his reasons, and you said it was because somebody was crying out about the expenses, and you thought that influenced the Attorney-General.—A. Precisely.

Q. Now, I want to know upon what that opinion of yours was based?—A. I said that because the Attorney-General and I had spoken upon that very subject.

Q. What did the Attorney-General say about it?—A. He said in general terms that there was getting to be a good deal of talk about the expenses of the trials of these star-route cases, and that he desired that no further expense should be incurred.

By the CHAIRMAN :

Q. Was there any want of evidence?—A. In the Mobile cases—no, sir; I regard the Mobile cases as absolutely certain.

Q. Were the witnesses accessible?—A. Yes, sir.

Q. And the only reason, so far as you know, for suspending the prosecutions was that to proceed would incur expense?—A. That it would incur expense was one reason, and then, too, the Attorney-General desired to stop and consider the whole subject of these cases.

Q. Were those expenses that would be incurred by going on the expenses incident to the procuring of witnesses and the ordinary routine of court business, or did the Attorney-General refer to the counsel fees?—A. I think the counsel fees were the most influential element in the matter. That is my judgment.

Q. Was there any suggestion that the funds for that purpose were exhausted or about to be exhausted?—A. No, sir.

Q. Then funds for that purpose were available?—A. Nothing was said about that.

By Mr. FYAN :

Q. What counsel fees did the Attorney-General complain of?—A. No complaint was made about any counsel fees.

Q. Were your fees going on?—A. My fees would have gone on, sir, if those cases had been tried.

Q. Have your fees increased or diminished in any degree from the failure to prosecute those cases?—A. Well, probably they have decreased in the sense——

Q. (Interposing.) You are charging less now?—A. I am not charging anything now.

Q. Do you intend to charge anything less on account of the Government not going on with these cases?—A. No, sir: my charge is precisely this: If I am taken away from my office I charge \$100 a day.

Q. That is not the question now. I understand you to say that the Attorney-General complained of the expenses, and now I want to know whether you are going to charge any less on account of the non-prosecution of these cases?—A. Of course, because I do not render any service now.

Q. You are still counsel for the Government?—A. I am not; but even if I were still counsel for the Government, I would not be charging anything, because, you understand, I get paid only for the time I am employed. I do not get paid straight along.

Q. When did your relation as counsel for the Government cease?—

A. Practically, I should think, early in January. I have been called upon to do some things since that time, perhaps down to the 1st of February, but nothing for which I have made any charge or expect to make any charge, and my relations to the Department formally ceased last week.

Q. When was this conversation with the Attorney-General of which you have spoken?—A. That was away back last summer.

Q. And you continued in the Government service from that time down to the 1st of February?—A. Yes, sir.

Q. From that time down to the 1st of February were your charges any greater or any less because of these cases not being prosecuted?—

A. They were not affected by them in any manner.

Q. Then the Attorney-General was not alluding to your charges?—

A. Not, except in this way: I suppose he assumed that if the cases were tried I should be employed to try them, and if I was employed to try them I would have to be paid.

Q. Do you think you were one of the attorneys he was talking about?—A. I think I was one of them in those cases.

Q. But still you say the failure to proceed with those cases did not diminish your charges?—A. Only indirectly, by the fact that I was not employed.

Q. But still you were employed up to the 1st of February last, and made charges?—A. I made charges only when I did anything for the Government. I think that from November down to February I made charges for absence from my office only for six or eight days. One of those occasions was the Spencer case, and the other the Kellogg case. On both those occasions I came here in response to a peremptory order from the Attorney General, and against my own protest.

Q. State whether the unfavorable result in the prosecution of the Dorsey case and the impression that the atmosphere of Washington was not favorable to the trial of any case successfully for the Government was not a consideration in the Attorney-General's mind.—A. It may have been in the Attorney-General's mind, but it was not the subject of conversation. The fact about the matter was this: I left here after the close of the last trial of the Dorsey case, which must have been in June, and I was brought back here for a motion in the Kellogg case on the 30th of June. When I left here I took with me a carefully prepared memorandum of all the pending cases for the purpose of considering while I was away during the summer, in the light of all we had learned in the Dorsey cases and the others, which of these pending indictments ought fairly to be proceeded with, and which I thought there was hope of our maintaining in court by conviction. I have said in the summer, but it must have been in September or October. It was the first time that I came back and saw the Attorney-General after the summer vacation that this conversation occurred in which I recommended proceeding with those Mobile cases. I suggested also at that time, as bearing upon the question of my compensation, that it was not at all necessary that I should come here to try those cases; that I thought other counsel could be employed and "loaded up" to try them; that they were simple cases, and that there were probably local counsel who could be employed in them and who would work for less pay than I would. That was the connection in which this conversation occurred. I think the Attorney-General at that time desired to look over the whole field in connection with these star-route cases, to see what should be done with reference to all the proceedings pending, and he expressed the desire that they should be stopped right where they

were; and they have been stopped except as adverse motions have been made on the other side and several motions in the case of Mr. Spencer.

By the CHAIRMAN :

Q. And the recent effort to set down the Kellogg case for trial?—A. That was an adverse motion on the other side.

By Mr. FYAN:

Q. Fix the date when the Government resolved not to prosecute those Mobile cases?—A. Well, sir, I cannot say that the Government ever resolved not to prosecute the cases.

Q. Well, to suspend their prosecution?—A. I should think the conversation I have stated must have occurred in October last. It would seem so to me now, because I do not think I was here in the fall so as to see the Attorney-General until October.

I started at one point in my examination to say something in reference to Mr. Merrick's coming into the star-route cases. All that I have to say about that is that when Colonel Cook went out the Attorney-General spoke to me on the subject of employing Mr. Merrick. He said he had had a conversation with Senator Edmunds, of Vermont, and that he proposed to employ, or was thinking of employing, Mr. Merrick. I think the Attorney-General had a little idea that perhaps I might want to be left in charge of the cases—there seemed to be something in his manner that implied that—at all events, he expressed very great gratification when I said that it would suit me entirely to have Mr. Merrick come into the cases; that I did not know Mr. Merrick, but from what I had heard of his standing at the bar I would be very glad to have him employed. The Attorney-General gave me a letter to Mr. Merrick and I went down and saw him and went over the cases with him as far as I could, and subsequently Mr. Merrick assented to being employed.

Q. The first time that you had any intimation that it was the intention of Attorney-General Brewster to suspend the prosecution of these cases was in this conversation that you have related which came up about prosecuting those Mobile cases?—A. Yes, sir; if that was a conversation of the nature you describe—an expression of an intention to “suspend the cases.” The Attorney-General expressed an intention to stop right there, so as to enable him to look over the whole ground.

Q. You wanted to prosecute those cases?—A. I wanted to have the Mobile cases prosecuted.

Q. Had the Government lost any money by those men?—A. As to those particular Mobile cases, I cannot say whether the Government had lost or not on those bonds. Those parties were bondsmen for Boone, and he had, on some of his contracts, become a failing contractor, and the Government had lost some \$18,000 or \$20,000 by his failure; but whether that failure related to the particular contracts upon which those men were bondsmen or not, I cannot tell you.

Q. How much did you charge for examining those cases?—A. I don't remember that I made any specific charge for those cases. I charged for the days covering whatever service I rendered.

Q. Can you approximate the amount which the examination of those cases by you cost; did it cost as much as \$5,000?—A. No, sir; not so much as \$500, or \$200. Those cases were examined on days when I was here in connection with other cases, and when I should have been charging the Government just the same without reference to those particular cases. As I was here upon other business, I do not think that practically the examination of those cases added a dollar to the expenses, so far as my fees were concerned. Of course, the cases did add

to the expenses, on account of bringing witnesses from Mobile, and such things.

Q. The Attorney-General, then, did not allude to your charges when he spoke of the expense in connection with those cases; I mean in the conversation that he had with you on the subject?—A. He did not. I have stated the whole conversation as I recollect it, and he did not make any such allusion, further than as I have already stated.

Q. Did the suspension of prosecutions spoken of in the conversation which you have mentioned relate to discontinuing efforts to procure indictments in other cases?—A. No, sir; nothing was said about that.

Q. In your former examination you spoke of certain briefs of evidence that were used in the efforts to procure indictments against the Parkers and Salisburys; and I desire to call your attention to brief A, which you put in evidence, and which appears on page 173 of our printed record. That brief is as follows:

A.

Vinita to Las Vegas. Route 32021, 725 miles. Once a week. Ten days. Virgil W. Parker. \$6,330.

Sept. 27th, 1878. Hayes, Tascosa, and Wheeler were added.

(On the margin:) By another order 12 miles were added, and 535.77 for Seven Oaks, though it was directly on the route.

Of these offices, Hays cannot be found, Wheeler was discontinued. Wheeler and Tascosa were directly on the line, yet they were ordered to add 85 miles to the route, and \$842.38 was added for that. This was before expedition and increased service. By expedition and increased service the cost of these paper miles was greatly increased.

Dec. 1st, 1878. Two trips were added and \$12,000 allowed. This order, and that adding Tascosa, etc., were modified so as to allow together \$23,573.79.

Nov. 16th, 1878. J. W. Parker became subcontractor at full pay.

Jan. 1st, 1879. Time was reduced to 7 days, and \$31,846.31 allowed. This brought the total pay at that time up to \$50,836.31.

Jan. 12th, 1879. The P. M. at Vinita wrote that the service was superfluous; that there was no intermediate office that amounted to anything, and that in over three months he had received less than 50 letters and a half dozen papers.

Feb., 1879. It appeared that the mails for Darlington and Fort Elliot, the chief intermediate offices, having been directed to be forwarded from Vinita over this route, but that for weeks none had been delivered.

P. M. at Darlington wrote that only 2 papers and two letters had passed over the route, and that there was no road to Vinita.

P. M. at Vinita made same report.

These facts were expressly called to Mr. Brady's attention March 17th, 1879, and he directed that no change should be made.

March 8th, 1879. Chambers, P. O. inspector, wrote the Department that a movement was on foot by interested parties to secure further increases, and he believes it wrong. The route as let was really 638 miles long instead of 725, as advertised. This appears from distance circulars. By the addition already noted, the Department, on paper, made the distance on March 19th, 1879, 810 miles, and the time, having been by expedition put down from 10 to 7 days, was then, in consideration of the alleged increased distance put up to 9 days.

July 6th, 1879. Service was increased to seven trips and 86,052.59 allowed. This carried total pay, which had began at \$63.30, up to \$136,888.90.

There were numerous petitions for this from St. Louis and members of Congress and Army officers.

Letters from E. W. Parker, the brother to Parish, show how this was done.

The revenues of all the offices were 520.22.

April 30th, '79. P. M. at Vinita who had written against the route was removed at Brady's demand, though the inspector reported in his favor.

April 22nd, 1880. P. M. at Red River Springs wrote transmitting a letter from E. W. Parker, seeking to bribe her.

Aug. 1st, 1880. Service reduced to 3 trips, and \$64,539.44 deducted.

Superintendent railway mail system. P. M. at Mohute or Fort Elliot, at Darlington, says route of no use.

Aug. 6th, 1879. An inspector reported to same effect.

March 19th, 1879. 69 miles were added to embrace several stations on the west end of the line, and \$684.59 allowed. This was for another change from a route which they had never traveled, and which was impracticable.

In fact, with all the additions, the road is one mile less than advertised.

The fictitious distances took from the Treasury after expedition \$31,973.97 a year. A serving of one day out of ten cost \$94,336.39 a year.

Letters show a disposition to bribe Hunt, superintendent mail service.

Q. I desire to ask you whether the facts stated in this brief were by you brought to the attention of the grand jury at the time they ignored that bill?—A. Yes, sir; the facts that are stated there were all in evidence from the files of the Post-Office Department, and the original papers referred to were placed before the grand jury in succession—proved as coming from the Department, and placed before the grand jury. Then there was oral evidence besides.

Q. Did you call the individuals who were cognizant of these facts to testify before the grand jury, and did they testify to these facts?—A. All of those individuals did not. Judge Wylie having ruled incidentally, and it being our opinion that the records from the files of the Department were proof, we then undertook to supply the salient facts outside. I have already stated that one witness whom we brought here, and whose name I do not recall, had a failure of memory; that his memory when he testified here as a witness was not so good as it was in the statement that he had made to the post-office inspector out on the route. When he got here he did not come up to time; and, as I before remarked, I never was certain whether it was a real failure of memory or not. I also mentioned an important witness on that route that we had counted upon but failed to find.

By Mr. STEWART:

Q. Were you present with the grand jury?—A. I went before the grand jury and put all the papers in.

Q. Was the grand jury advised that this record evidence from the Department was competent evidence?—A. Yes, sir; and they acted upon such evidence in other cases. There was no question about that, because they acted upon the record evidence in other cases. This very grand jury found the indictments in the San Antonio and Corpus Christi case upon record evidence, with a single witness, or perhaps two, in addition.

By the CHAIRMAN:

Q. Did you call the attention of the grand jury to the facts specifically set forth in this brief?—A. Before the grand jury I took up each paper in its order and called the attention of the grand jury to what each paper showed. There was a package of papers, probably so thick [indicating about nine inches]. I think Mr. Woodward brought the papers from the Post-Office Department; at any rate I had some Department officer to prove the papers, and then, having gone through them, the foreman of the grand jury said to me that he wished I would give him a little abstract of those papers for his convenience, and I did so, and that and one of those is the brief that you are now inquiring about.

Q. Did you call the attention of the grand jury to the fact that over this route, for a period of three months, when the expenses were at the rate of \$50,000 a year, there had passed less than fifty letters and half a dozen papers?—A. I do not remember that specifically; but I can say

in general terms that I called the attention of the grand jury to every fact that is there stated.

Q. Was there proof of the fact that the postmaster who had written that this service was unnecessary was removed by Mr. Brady?—A. Yes; that is my recollection of it. That was in the papers.

Q. Was the letter from the postmistress at Red River Springs, saying that the brother of the contractor had sought to bribe her, put in evidence?—A. That was put in evidence; that I remember.

Q. Was there any dispute as to the genuineness of the letter?—A. No, sir; the letter bore the post-office stamp.

Mr. STEWART. There is no controversy as to facts before a grand jury in my part of the country.

The WITNESS. No, sir; and there was none there. That letter was from the recognized postmistress, who wrote as such, and it was quite an indignant letter.

By the CHAIRMAN:

Q. Do you remember what was the nature of the proposition to bribe her?—A. I do not recall it definitely. I think it was an offer of \$50, or something like that, for which she was to—well, there were so many of those things that I have got them somewhat mixed; but my recollection is that that related to something about the reports of the arrivals of the mails. Mr. Woodward reminds me that the case was this: To get to this post-office the mail-carriers were required to diverge a little from the direct road, and if they could be allowed to pass by that post-office without calling there at all, they would save considerable time; and as the mail was not heavy, they proposed to pay the postmistress if she would let them go by and say nothing about it.

Q. Was that fact in evidence?—A. Yes, sir.

Q. Was it in evidence that this route was being paid for as 810 miles long when in point of fact it was, with all the increased distance, one mile less than the number advertised?

Q. You say in this brief that the route as let was really 638 miles long instead of 725 as advertised, and that with all the additions it was one mile less than advertised. That fact, you say, was presented to the grand jury?—A. I remember that there was a question as to the distance put before the grand jury, but the precise figures I do not recall. I repeat again, however, that anything that is stated in that brief was called to the attention of the grand jury.

Q. And you considered the facts here set forth as sufficiently proven before the grand jury to warrant an indictment?—A. I did, sir; and yet, owing to the failure of this one outside witness to appear, I did not make so absolutely conclusive a case as I had expected to make. Still, I thought the grand jury ought to indict.

Q. Was there anything said about the failure to find the post-office by the name of "Hayes"?—A. Yes, that was in the paper.

Q. Was that post-office named for the late President?—A. Yes, sir.

Q. Then it was a fraud. [Laughter.]—A. Well, sir; it was about as difficult to find as it would be to find him now. They got up post-offices out there and named them after various men, but "Hayes" could not be found, and it is evident from the facts proved that several of the others might as well not have been found. Let me say at this point that those offices were all established on the recommendation of United States Senator Stephen W. Dorsey.

Q. The offices were established on the recommendation of Senator

Dorsey, and they could not be found?—A. One of them could not be found. The others that were on the road were found.

By Mr. STEWART:

Q. Has there ever been a United States expedition to discover those post-offices? [Laughter.]—A. Well, they sent a post-office inspector out there to look for them.

By the CHAIRMAN:

Q. Were the petitions that are mentioned in this brief from Saint Louis, and from members of Congress, and from Army officers, put before the grand jury?—A. Yes, sir. Well, I remember that there were Saint Louis petitions and a good many petitions of one sort and another. Whatever there were, were presented to the grand jury, and I remember that they were quite numerous.

Q. Was Mr. Woodward called before the grand jury in reference to this route?—A. I don't remember. There was nothing that Mr. Woodward could testify to upon that route as of his own knowledge. He could merely have brought the papers, but whether he did bring the papers, as the officer in charge of the files, to prove that they were from the files, or whether they were brought by some other clerk, I do not now remember.

Q. Do you remember whether Mr. Woodward testified at all in the case?—A. My impression would be that he did not. It does not now occur to me what evidence he could have given in that case.

Q. Can you name the witnesses who did appear to testify in this case before the grand jury?—A. No, sir; I cannot.

Q. Can you state the name of any witnesses who appeared before the grand jury when this case was being considered to testify with reference to the route from Vinita to Las Vegas?—A. I cannot. I presume the minutes of the grand jury will show.

By Mr. FYAN:

Q. Did the grand jury keep minutes?—A. I suppose so.

Q. Do you know?—A. I do not. I can undoubtedly ascertain some of the names by the marshal's accounts showing the payment of witness fees. Those accounts would show the places the witnesses came from. That is the only way I know that I could recall the names.

By the CHAIRMAN:

Q. You cannot now remember the name of any witness who appeared before the grand jury to testify in regard to this route?—A. I cannot recall any name at all.

Q. Do you know how long the grand jury were considering this case and the papers in it?—A. No, sir; I cannot tell you that. The way it was done before the grand jury was this: We took up a route—for instance, that route; the papers were proved and the witnesses were examined. Sometimes the witnesses were examined before all the papers had been gone through, or when we came to a paper which related to a matter as to which there was a witness waiting in the outer room, he was called in; and we went through the route in that way. Then another route was taken up and dealt with in the same way, and then another route, and so on. I think that particular grand jury, after they had got through the evidence in all of the cases that I placed before them, took them up and considered them together; at any rate I received these notices of their action all at the same time.

Q. Do you know whether the minutes of the proceedings of the grand jury were kept?—A. I do not.

Q. If there was any failure to keep minutes, whose fault would that be?—A. The grand jury's.

Q. The fault of the foreman?—A. I cannot tell you that. I don't know whether the grand jury elected a clerk or not. I know that several of the grand juries that I went before had clerks who were apparently keeping minutes, and while I do not identify this particular grand jury as to that point, my impression is that they did keep minutes, though I never saw the minutes.

Q. Then you do not know whether minutes were being kept at the time you were present?—A. I do not know as to this particular grand jury, but I do recall the case of a grand jury in which at some time while I was present I did see minutes being kept.

By Mr. FVAN:

Q. You say that if you could see the marshal's account of the payments made to witnesses you would then know the names of the witnesses who were examined in this case.—A. The account would remind me of the witnesses.

Q. Would it enable you to say whether they were before the grand jury?—A. Yes, sir; because no man was paid by the marshal except upon my certificate that he was before the grand jury.

Q. Suppose a witness came here and was not examined, would you refuse to pay him?—A. I was in the habit of stating in the certificate of such a witness that he had been summoned to attend but was not examined.

Q. Did you make memoranda of that in those cases?—A. I usually wrote it on the notice to the marshal, but I am very sure that on the Vinita and Las Vegas route no witness was paid whom I did not call before the grand jury.

By Mr. STEWART:

Q. Do you know why that grand jury ignored this bill?—A. No, sir; I have not the remotest idea of the reason.

Q. Was any statement made by any of the grand jurors to you as to the sufficiency of the evidence?—A. No, sir; there was not.

Q. Was there any call upon you for additional proof?—A. No, sir. The grand jury had taken their action, and I did not feel that I had any right to remonstrate with them. I do remember saying to some member of the grand jury, I don't remember whether it was the foreman or not, that I was a good deal surprised at their action, and he replied, "Well, we tried to do right."

By the CHAIRMAN:

Q. Did you not regard this route from Vinita to Las Vegas as one of the most fraudulent of all the routes?—A. I regarded it, if we could get at the bottom of all the facts, as likely to develop quite as much fraud as any route that we had; but I regarded the investigation on that route as having been by no means so complete as the investigations of other routes. The post-office inspectors had started out there to go over the route, but it had been broken up by advancing railroads, and many of the witnesses were Mexicans—a floating population that had gone off and disappeared, and the inspectors had not had time to look them up. At my instigation there was a subsequent investigation made, which I understand brought in all the missing evidence.

Q. Was there not evidence sufficient to show that the expedited serv-

ice on that route was not performed?—A. I do not recall the evidence absolutely. My own impression is that there was enough evidence in the papers to satisfy anybody *morally* that the service was not performed; but whether it was so stated squarely, as a matter of evidence, I have some doubt. I think that was one of the points as to which missing witnesses were desired.

By Mr. FVAN:

Q. Was Mr. Crowley employed by any of these men who anticipated being indicted?—A. I never knew of his being employed.

Q. You never had any conversation with him to that effect?—A. No, sir; never about his being employed.

Q. Or about the propriety of his being employed?—A. No, sir. The only conversation with him relating to the matter that I remember is this: On one occasion he said that Colonel Ingersoll wanted to see me about something in connection with this arbitration business. Colonel Ingersoll had called me a liar in court, and I said to Mr. Crowley that I did not see any public exigency that required me to have a personal interview with Mr. Ingersoll, and I had none.

Q. That is not the point of my question. My question is whether Mr. Crowley ever consulted you as to the propriety of his taking a fee from any of these defendants?—A. No, sir; not that I recall. I do not see why he should have done so, and I don't think he ever did. If he did I do not recall it.

By the CHAIRMAN:

Q. Were any indictments prepared by you to cover the Vinita and Las Vegas route?—A. No, sir. The indictments at that time were being prepared by Mr. Ker, and my recollection would be that drafts of those indictments had been prepared by him. I am very confident that that was so, because we were working against the statute of limitations, and if the grand jury found bills we expected to get them right in.

Q. Was this grand jury that considered the cases of the Parker-Salisbury routes in session pending the first or the last trial of the Dorsey-Brady case?—A. Oh, it was prior to the last trial. This was in June, 1882. Now, whether the first trial of the Dorsey case had then commenced or not, I am not able to say. I think it had not absolutely commenced, but it commenced very soon afterwards, I think. I think the first trial of the Dorsey case began about the 20th of June, and I think these transactions were about the 14th of June. That is my recollection.

Q. You have stated that the return of these briefs to you with the indorsement that the cases were dismissed was a surprise to you, and that in fact you were pretty "sick."—A. Yes, sir; that is a fact.

Q. Please state now what caused that surprise.—A. Simply because I thought we had made a case that would secure indictments in all the cases we had placed before the grand jury except on the Soledad and Newhall route, where the order turned out to have been made by Mr. French, and upon that case we felt that we had broken down.

Q. Did you make any efforts to have these cases considered by any other grand jury?—A. No, sir.

Q. Has the statute of limitations run as to the Parkers and Salisburys in reference to those routes?—A. According to my view, it has not. July 6, 1879, this route was increased and \$86,000 was allowed. Now, if you take that order made on the 6th of July, 1879, as the overt

act from which your statute of limitations is to be calculated, of course it would have expired on the 6th of July, 1882; but, as I have always regarded the matter, if a fraudulent order was made by Mr. Brady in 1879, and quarter after quarter the contractors went on taking their pay under that fraudulent order, each time they took their money there was a new overt act and the running of the statute ought to be calculated from that. Now, as to what time they did take their last quarter's pay on that route I cannot say, and therefore I can't say absolutely whether the statute of limitations has now run or not.

Q. Has the court decided that question about the running of the statute?—A. No, sir; we always avoided it. We never presented that question because we always succeeded in every case we brought into court in presenting an order less than three years old, upon which, as the overt act, the indictment was found.

Q. Were there any sessions of the grand jury subsequent to the one at which these cases were dismissed?—A. Not of that grand jury.

Q. Was there any subsequent grand jury by which indictments could have been found against these parties?—A. Oh, yes; if you had had the proper evidence and the witnesses to put before them.

Q. Did you make any effort to have these parties indicted by any subsequent grand jury?—A. I did not.

Q. Did any of the other Government counsel?—A. I think not.

Q. Do you attribute the failure to indict these parties by the grand jury, of which Mr. John T. Mitchell was foreman, to the want of sufficient evidence, or to the incompetency or other fault of the grand jury?—A. I did not consider that the grand jury was incompetent, because, if I recollect right, in the first place, that grand jury did find an indictment on the Corpus Christi route, and in the second place, I think that same grand jury found the second Dorsey indictment, which we tried. My feeling therefore was that that grand jury was not incompetent. I saw nothing to indicate that it was so. The foreman was certainly very competent as I recollect, and the jurors were gentlemen quite up to the average of intelligence. For that reason, and also because they found indictments in the Dorsey case and in the Corpus Christi cases, I felt that I had no right to say that they were not competent or that they were not acting intelligently or weighing evidence, and while the evidence conveyed to my mind a different conclusion from that which they reached, I did not feel at liberty to find any public fault with them.

Q. You have been district attorney in New York for many years?—A. For four years.

Q. During that time you had a great deal of experience, I presume, in bringing cases before grand juries?—A. Yes, sir.

Q. It does not require as much evidence to find an indictment as to secure a conviction?—A. Nothing like as much.

Q. A merely *ex parte* case is sufficient?—A. Yes.

Q. Can you, then, account for the fact that with this absolutely conclusive evidence before them that grand jury failed to find an indictment in these cases?—A. I cannot account for it any more than I can account for the failure of the jury in the Dorsey case to convict.

Q. That was a trial in which the other side was heard, and in which the arguments of counsel were heard and the rulings of the court; but before this grand jury you had only to present one side—it was a mere *ex parte* proceeding?—A. Yes, sir.

Q. The other side were not present and had no opportunity to be heard by counsel, and you presented as you thought a strong and con-

vincing case?—A. I presented the case that is shown there in that brief, and I think it is strong and convincing.

Q. For instance, a route let originally at \$6,330, and increased to over \$136,000, when the postmaster at Darlington, a post-office, wrote that only two papers and two letters had passed over the route, and that there was no road to Venita. With these and all the other facts in this brief placed before the grand jury, and with nobody present to dispute them, that jury failed to find an indictment. Now, can you account for that?—A. I cannot, sir.

The CHAIRMAN. I am sure I cannot.

By Mr. FYAN:

Q. What has become of the Salisbury papers relating to these routes?—A. They are undoubtedly in the files of the Post-Office Department; and as I see here there is considerable additional evidence as to this particular route.

Q. Were any of the papers in these cases abstracted?—A. None that I know of. None of these papers were abstracted unless it was done after they were put before the grand jury and I have no idea that any of them have been. The combination of the safe was changed before that time.

By the CHAIRMAN:

Q. What you have stated about the Venita and Las Vegas route may also be said, I suppose, of the Wells and Hamilton route?—A. Yes, sir. In the Wells and Hamilton route and of the Pembina and Fargo route I considered that the evidence was far more complete. There was nothing more to be sought in order to have tried those cases. If there had been an indictment found on the Venita and Las Vegas route, before going to trial I should have endeavored to supply additional evidence, but on the Pembina and Fargo, and on the Wells and Hamilton routes I considered that the evidence was sufficient to go to trial—sufficient not only to secure indictments but to convict.

By Mr. MILLIKEN:

Q. Indictments were not found on those routes?—A. No, sir.

By the CHAIRMAN:

Q. Were those Salisbury routes?—A. They were routes that were in the names of representatives of the Salisburys, Luke Voorhees, a stage driver, and others. Mr. Woodward reminds me as to the Venita and Las Vegas route that, although an inspector had been over a portion of the route, it was not one of the routes over which inspectors had been sent specially after the star-route investigation began. An inspector had gone over a portion of that route previously, and had made a report, but it was not one of those exhaustive reports such as you find here. Such an examination was made afterwards at my request.

Q. From all you know of the failure of the grand jury to indict in these case, is it your opinion, or was it then your opinion, that any undue influences had been brought to bear upon that grand jury?—A. So far as related to the Salisbury and the Parker combination, I saw no indication that any undue influences had been brought to bear upon the grand jury, because, while I watched pretty carefully, I never got anything which led me to think that the friends of the Parkers and Salisburys knew at that time that their cases were before the grand jury. I never got any indication of such knowledge on their part, and yet things are done here in Washington so publicly that I cannot see how they could

have failed to know it. For instance, you cannot summon a witness before the grand jury unless he is taken into the clerk's office and sworn there, and that is a matter of record, and usually they require it to be stated what case he is sworn in; but I got around that as well as I could, and pretty successfully, because Mr. Brady had a good deal of litigation on hand at that time, and I returned my witnesses as in the case of "The United States *vs.* Brady and others."

By Mr. FVAN:

Q. Have the grand jury no right to administer oaths?—A. They consider here that the grand jury cannot administer oaths, and the witnesses are always sent to the clerk's office to be sworn. I think on one or two occasions the foreman of the grand jury did in my presence administer an oath, but when I mentioned it somebody expressed doubt as to whether it was legal. I have always been accustomed to think that the foreman of the grand jury was the proper person to administer the oath, but the practice here is otherwise. I was going to add that when a witness was sworn and it was made a matter of record and he went before the grand jury, the Star or the Critic would probably have an item announcing that John Smith was sworn to day as a witness in the case of the United States *vs.* Parker and others, or whatever case it might be. That was the practice; but, as I have said, I avoided that by putting in my witnesses as in the case of the United States against Brady and others.

Q. You have not answered specifically as to whether any undue influence was used to prevent the finding of indictments.—A. I have nothing to justify me in the expression of such an opinion. There was more chance for undue influence and more invitation of undue influence in the Dorsey case, yet the grand jury indicted in the Dorsey case, and in these cases they did not. They also indicted in the Price case, where I should have said *a priori* that undue influence was more probable to be used.

Q. Who presented the Dorsey case?—A. I did.

Q. Was Mr. Woodward before the grand jury in that case?—A. He was.

Q. For what length of time?—A. I cannot tell you. I think he went before the grand jury several times in that case; as the papers on each route went in, I think he gave his testimony in relation to them.

Q. Was he before the grand jury in the Salisbury cases?—A. I don't remember whether he was or not; but my impression is that he was not in all of them, though he may have been in all.

Q. Why didn't you have him before the grand jury in the Salisbury cases?—A. Simply because he could not testify to anything in those cases of his own knowledge. He had never been out on the routes. We wanted evidence of post-office routine, and that he could give, but that had already been explained before the grand jury.

Q. Could not he explain that better than anybody else in the Department?—A. No, sir; you will bear in mind that we had no right to put him before the grand jury to make explanations, but only to give testimony.

Q. Then how did he get there in the Dorsey case?—A. Because he went as a witness, stating his knowledge of Post-Office routine, and also producing and identifying papers. He may have taken the papers before the grand jury in the other cases also, but he had no right to explain.

Q. He had as much right in the one case as in the other, had he not?
—A. To explain—yes; but I do not think he did.

By the CHAIRMAN:

Q. Did he take the papers and read them to the grand jury, or did he just take the package there and let the foreman read them?—A. I remember that when we started out before the grand jury they were rather particular and required positive proof as to where the papers came from, but as we went along they became less so. A clerk from the Post-Office Department would come in with a bundle of papers and would be examined somewhat in this way: You are a clerk in the Post-Office Department? Yes, sir. You are in charge of certain files of papers? Yes, sir. What have you there? The papers relating to the Vinita and Las Vegas route. Those papers come from the original files? Yes, sir. Then he would put them down and I would take them up and read them.

Q. Did you read all the papers that were laid before the grand jury in the Vinita and Las Vegas route and the Parker-Salisbury routes?—A. I read them in this sense: I did not read every word, but I said, "Here is a petition," and then I stated the substance of it, and said there are so many signatures, and so on. Then I took up another and read it in about the same way, and they were all gone over in that way.

Q. You had no reason to believe that there was any undue influence brought to bear upon that grand jury in reference to the Parker and Salisbury routes?—A. I had no belief of that sort, because I had no evidence on which to found it; but in thinking over why it happened that that grand jury, which did indict in the Dorsey case and in the Price case, failed to indict in those cases, of course there ran through my mind the question, "Well, could there have been any undue influences there?" and I looked for traces of anything of that kind, but, other than the fact that the grand jury had failed to indict, I did not find any.

By Mr. FYAN:

Q. Was Mr. Salisbury here at that time?—A. No, sir; I do not think he ever came here. I have understood that he never did come here. The nearest I ever heard of his coming to Washington was at one time a good deal later, when he came to Baltimore.

Q. Mr. Dorsey has stated in a published interview that he was offered immunity, by preventing indictments and prosecutions, on condition that he would pay a certain sum of money, and that he refused to contribute anything for that purpose. Assuming that that was true, might not that explain why indictments were easily found against him, when cases equally strong against others were ignored by the grand jury?—A. Well, sir; you will have to draw your own inference. You are supposing a condition of things which I am confident never existed. Mr. Dorsey never was offered anything of the kind by any human being who had any authority to offer it, in any manner; that is, after I came into the cases; for you will notice that, in a letter which I have put in here, I carefully provided against any such offer being made by anybody else and precluded myself from making any such offer. If the offer was made earlier it was long before there were any indictments, and could have had no bearing upon them; and if it was made after I came into the cases it was utterly unauthorized.

Q. Were the same efforts made by the counsel for the United States to secure indictments against the Parkers and Salisburys that were made to secure indictments against Brady and Dorsey in the cases that

were tried?—A. Yes, sir; I personally made, perhaps, greater efforts, because we were met by the statement that we were persecuting Mr. Dorsey and letting other people go; and you will remember that in one of the earliest written of my letters which I have produced here I referred to the fact that we must get after the Salisbury combination, and I felt that we were liable to be criticised if we did not pursue them. Therefore, as I have said, I personally, perhaps, took more pains in these cases; and that was one of the reasons which made me feel so “sick” when I got these notices that the cases were dismissed.

Q. Were you also of the opinion that your associate counsel, in behalf of the Government, were making, and did make, equal, or even greater, efforts to secure indictments against the Parkers and Salisburys than were made to secure indictments against what was known as the Dorsey combination?—A. The matter of procuring indictments was chiefly in my hands, and probably I must take the responsibility of it. Mr. Ker was *drafting* indictments. Mr. Merrick came into the cases somewhere about the 1st of October, 1882, and he was chiefly familiarizing himself with the evidence in the Dorsey cases, but I went over with him also the evidence upon these other routes. The counsel, other than myself, certainly were as strenuous and did as much with reference to securing indictments in those other cases as they did in the Dorsey case; but, as I have said, in all these cases the matter of procuring indictments fell chiefly upon me.

Q. Were you of the opinion that the evidence was as clear and convincing upon which you relied to secure indictments against the Parkers and Salisburys as the evidence against the Dorsey combination?—A. Taking individual routes it was as clear, but there was not the same aggregation; we had not the evidence to make that aggregation of routes and to show the same class of orders and the same procedure with reference to the Salisburys that we had in the Dorsey case. The Salisbury routes were many of them in the names of different people, stage-drivers and others, so that the case could not be presented, as it seemed to me, with the same force as the Dorsey case. But take the route from Wells to Hamilton and the route from Fargo to Pembina; I think the evidence in those two cases, or in either one of them, was as strong as the evidence in the Dorsey routes.

Q. Did you make any statement pending the trial that the case against Dorsey was a weak one?—A. No, sir; I never thought so, and never said so.

Q. Was there not published an alleged interview in the New York Herald, in which it was stated that you had made a remark to that effect?—A. I do not recall it. I do not remember to have ever heard of that statement until Mr. Gibson or Mr. Cook stated it here. I never heard of it in any interview, and I do not think they said that I had ever so stated in any interview. At all events I never heard of it and never thought so.

Q. And you did not say that you did not think it was a strong case?—A. No, sir; Mr. Cook, you will bear in mind, stated that I said that Dorsey was one of the “head devils,” and I was going for him.

Q. He said you had made contradictory statements.—A. That may be. I have been making contradictory statements.

Q. You made an argument in the Dorsey case when it was tried?—A. I opened the case.

Q. After that, did you make a declaration, which was published in the newspapers, that you did not think Dorsey was as guilty as the

others?—A. No, sir. I never have made any such declaration. I never saw it stated that I did. I never expressed any doubt of his guilt.

Q. You never had an interview with a correspondent of the New York Herald to that effect which was published?—A. Not that I saw.

Q. Then you did not have the interview?—A. I never said any such thing, and if any such interview was published I never saw it. I certainly was not fool enough to undertake to run down publicly a case that I was prosecuting.

By the CHAIRMAN:

Q. In this connection, let me ask you whether you have at any time complained of the manner in which those prosecutions were being conducted?—A. Have I at any time complained? No, sir.

Q. Complained or criticised the manner in which the prosecutions were being conducted and the failure to convict?—A. No, sir.

Q. If any interviews to that effect have been published they were unauthorized?—A. Certainly they were. I cannot imagine that there have been any such interviews published; but I have got through following interviews in the newspapers. On several occasions I was "interviewed" here when I was in New York, and on one occasion I was interviewed here when I was at Alexandria Bay, and had been there for some weeks.

Q. You spoke some time ago about the Attorney-General having recommended a suspension of effort in the direction of the prosecution of these persons.—A. Perhaps that word "recommended" puts into the Attorney-General's mouth a little stronger language than is fair to him. He said he desired nothing should be done in those cases at present.

Q. On account of the great expense?—A. As I have stated, the Attorney-General did not at that time say anything about the expense, but that had been mentioned in a conversation just prior to this one, or there was something said in a conversation just after it, which led me to think that the question of expense was in his mind. He was contemplating reorganizing his force.

Q. Was there any question raised as to how much *you* should be paid for your services?—A. Not at that time. I had always told him the terms on which I had been employed and the terms on which I would serve, and had always notified him that I would be very glad to go out of the cases, but that if I remained I would not serve for less compensation.

Q. Did he insist that you should serve for less compensation or that your fees were excessive?

Mr. STEWART. Mr. Chairman, would it not be better to let Mr. Bliss begin at the beginning of that subject and state what his contract was with the Department of Justice?

The WITNESS. I will do so with pleasure.

By Mr. MILLIKEN:

Q. Did you make any contract?—A. When I first saw Mr. MacVeagh at Long Branch, I introduced the subject of compensation and stated in a measure my reasons for it.

Q. Had you been previously employed?—A. No, sir; I went down to see Mr. MacVeagh as to whether I would be employed or not.

Q. How came you to go?—A. After that letter which I wrote to Mr. James, and which I have put in evidence here, I got a request to go to Long Branch to meet Mr. MacVeagh and Mr. James.

Q. Who first made the proposition to employ you?—A. As it came

to me, the first proposition to employ me came from Mr. James. Perhaps I can shorten this matter. The Attorney-General called upon me to enable him to respond to a resolution of the Senate asking information in regard to this matter of compensation, and I wrote him a letter of which I have a copy here, and I think I had better read it because it presents the matter in brief, and will lay a basis on which you can question me. I will read the letter of the Attorney-General and my reply :

DEPARTMENT OF JUSTICE,
Washington, February 28, 1884.

SIR: I have received a resolution from the Senate inquiring when and by whom compensation for special attorneys in the star-route cases in the District of Columbia was fixed, and to furnish copies of any agreements or memoranda relating thereto, and the facts relating to the reasonableness of such compensation, and my reasons for paying the same; also whether such attorneys, or any of them, are now in the employ of the Department of Justice, and at what compensation.

I have to request that you will furnish me with copies of any papers or data which you may possess that will enable me to make a prompt and full answer to this resolution.

I have written a similar letter to Mr. Merrick and Mr. Ker.

Your early attention will oblige,

Yours, very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
Special Counsel, 160 Broadway, New York, N. Y.

SIR: In reply to your favor of 28th instant, asking any information I can furnish to enable you to answer fully the resolution of the Senate as to the compensation of counsel in the star-route cases, I have to state as follows :

First. When first informally approached by Hon. Thomas L. James, the Postmaster-General, as to being retained as counsel for the Government, I expressed my unwillingness to being retained upon the double ground that, however faithfully counsel served the Government, they got no thanks, and that there was always difficulty in collecting the compensation. I remember that in a personal letter then written, I stated that my experience was that the reasonable compensation was always cut down a half, and that then "you had to employ a corkscrew and a claim agent to collect it." Experience shows that I was right.

Second. In spite of my expression of unwillingness, I was invited to meet Mr. James and Hon. Wayne MacVeagh, then Attorney-General, at Long Branch, and as a result I agreed to be retained. The proper rate of compensation was then talked over. It was my impression then (in which I think Mr. MacVeagh concurred) that the statute did not give the Attorney-General authority to agree absolutely upon the compensation beforehand. I subsequently found that I was wrong in this impression. Acting, however, on the impression, I stated to the Attorney-General that I had not for some years received less than a hundred dollars a day and expenses for professional services away from home; that it was calculated at that rate for all the time of my absence, and that there was no right to require me to travel at night; that I should expect to be paid at that rate, and that I did not consider that that covered the labor involved in the preparation of any elaborate argument that might become necessary as to the law or the facts, and that for such labor I should expect to be allowed something additional.

As for time devoted to the matter at my home, I stated that that must necessarily be left for arrangement after the services had been rendered.

I added that if the services were prolonged, but not continuous, leaving me opportunity to return and attend to my other business, I should think some deduction might be made from these rates. I referred in this connection to the fact that for the last services I had rendered involving absence from home I had been paid by private clients at a much higher rate in an account involving several thousand dollars. I also either then or subsequently referred to the rate of compensation allowed myself and other counsel by the judges of the United States courts in custom cases, as showing that the rates I named were not excessive. Mr. MacVeagh, as I remember, concurred in my views; but I am bound to say that as I was under the impression that he could not make an absolute agreement, I did not regard what then passed as in the nature of a contract absolutely binding.

At this conversation I agreed to be retained, and was informed you were also to be retained. Subsequently after I met you, I informed you of this conversation, and you had a conversation yourself with Mr. MacVeagh, as the result of which you wrote him a letter, of which you furnished me a copy, and which is as follows:

“706 WALNUT STREET, PHILADELPHIA, *October 28, 1881.*”

“MY DEAR SIR: After we parted last night Mr. Bliss advised with me as to our fees in the star-route cases, as you said we should do.

“We have arrived at the following result, and agreed that I should promptly communicate it to you, so that we may have your immediate action while you have the authority to act.

“First. We now request you to pay us each twenty-five hundred dollars for the services thus far given.

“Second. That your successor may be informed of the understanding between us, and be prepared to fulfill your engagement with us. I repeat here what was expressed last night as to the rate of compensation to be allowed us, while we are in of these cases; and that was, we are to be paid each a hundred dollars a day while occupied in the cases, either out of court in the preparation of them or in court in the trial and argument of them, together with our expenses.

“I have the honor to be, with great respect, your obedient servant,

“BENJAMIN HARRIS BREWSTER.

“Hon. WAYNE MAC VEAGH,

“*Attorney-General of the United States, &c., Philadelphia.*”

Mr. MacVeagh emphasized his substantial concurrence with these views by sanctioning the payment to me of an itemized bill of \$6,000 for fifty-two days' services, in Washington and elsewhere away from New York, and of intermittent services in New York—a bill, by the way, which you informed me he stated he regarded as very moderate. As to facts “relating to the reasonableness of compensation, it is probably not proper for me to refer to anything further except the matter to which I made general reference in my conversation with Mr. MacVeagh, and which I have since brought to your attention more or less formally.

The district attorney of the United States at New York received by law a salary of \$6,000 a year, and the Government pays his assistants and clerks salaries amounting to some \$25,000 to \$30,000 a year, besides furnishing office, stationery, &c. The district attorney also receives 2 per cent. in all collections in revenue cases. The latter item prior to 1875 amounted to a large sum annually. Whenever the district attorney appears for any officer of the Government sued individually, he is entitled under the law to be paid such further sums as are certified by the district or circuit judge of the United States to be “just and reasonable.” The district attorney at New York is most frequently called upon to appear for the collector of the port, against whom thousands of suits are brought yearly. But he also appears for the postal officers, for the officers of internal-revenue, and for officers of the Army and Navy. In all these cases he makes up accounts which are certified by the circuit or district judge who tried the case as “just and reasonable.” I was district attorney at New York from 1873 to 1877, and presented many such accounts. From an abstract in my possession of such bills, the originals of which are on file in the Treasury and other Departments, I call your attention to a few as showing what rate of compensation the judges of the United States have deliberately and repeatedly certified as reasonable and proper for one of the counsel employed in the star-route cases. These rules, I may say, did not differ in my case from those certified in behalf of my predecessors and successor.

Thus in the summer of 1873 Hon. D. A. Smalley, the district judge of Vermont, who during his incumbency of the office tried a large number of cases in New York, certified as “just and reasonable” an account containing the following charges, all in cases against the collector of the port tried before him:

For services in the case of *Societe, &c., vs. Bronson*, three days' trial, \$500; in *Chapon vs. Smythe*, seven days' trial, \$1,500; in *Hutton vs. Schnell*, ten days' trial, \$1,500; in *Leng vs. Grinnell*, three days' trial, \$300; in *Watson vs. Barney*, two days' trial, \$250; in *Ogden vs. Draper*, one day's trial, \$300.

These services were all within about thirty days. In 1875 the present circuit judge, Wallace, certified “as just and reasonable” an account in *Fowler vs. Schell* (two days), \$200; *Same vs. Arthur* (two days), \$500; *Lackey vs. Arthur* (four days), \$500; *Rceknagel vs. Murphy* (four days), \$500; *Davies vs. Arthur* (one day), \$250.

In 1876 the same judge certified in *Furman vs. Arthur* (three days), \$400; *Unkart vs. Arthur* (four days), \$400; *Rhiems vs. Arthur* (two days), \$250.

These are the only items in which the number of days are specified in a bill amounting to \$2,450. In a bill immediately following are items, respectively, of \$500 for two days, \$300 for three days, \$300 for two days, \$200 for one day, and late in the same

year the same judge certifies \$100 for one day, \$350 for two days, \$250 for one day \$250 for two days, \$200 for one day.

Judge Shipman, of the Connecticut district, certified in the same year \$500 for each of two days, \$200 for one day, \$500 for three days, \$1,000 for two days, \$200 for one day, \$300 for two days, \$100 for one day, \$350 for three days, \$700 for three day, \$200 for one day, \$100 for one day.

Judge Shipman certified other similar bills at the same rates. Judge Blatchford, now of the Supreme Court, certified in the same year, in different cases, items of \$350, \$350, \$250, \$500, and \$300, but I have no record of the number of days covered.

The amounts certified varied in the different cases according to the intricacy of the cases, and to some extent the amount involved.

The times I have given was the length of the trial, and the preparation was of course considered in arriving at the allowances, though that was known to be made chiefly by the salaried clerks and assistants.

You will perceive that though the rates vary they are in no case less than \$100 a day, and these allowances were certified as "just and reasonable" to an officer drawing a salary of \$6,000 a year.

I trust what I have said will enable you to fully answer the resolution of the Senate as far as I am concerned. If, however, you desire any further information, I shall be in Washington early in the coming week and will furnish it.

Your obedient servant,

GEORGE BLISS.

HON. BENJAMIN HARRIS BREWSTER,
Attorney-General.

The letter to Mr. James, referred to in this letter to the Attorney-General, was written at a time when Mr. James, as I recollect, was sued for his action as postmaster in using the Yale lock, and, as was claimed, violating a patent. He wrote me about it, and I wrote him a personal letter, and that letter was shown to Mr. MacVeagh, and, as I am informed, that was Mr. MacVeagh's first knowledge of me. The fact is that after I was district attorney I was employed by the Government in some important cases, and carried them through and made what was regarded as a rather brilliant success; but the Government haggled over my bill and paid me inadequately, and I quit, and declined after that any Government retainers, simply for the reason that I did not want to do any more Government business on such terms.

In connection with what I say in this letter to the Attorney-General about the rate of compensation being talked over at Long Branch, it is right for me to say that since the letter was written, on some consideration and some examination of papers, I am satisfied that I perhaps ascribed more of the conversation about compensation to that interview, and less to subsequent interviews, than I ought to have done; the subject did, in fact, come up at several interviews.

I say there that it was my impression at the time that the statute did not give the Attorney-General authority to agree absolutely upon the compensation beforehand; but my impression now, from an examination of the statute, is that it not only gives him that right, but makes it his duty to do so.

As to what I say in this letter of the interview at which it was arranged that Mr. Brewster and I were to be retained, at which time I was under the impression that the Attorney-General could not make an absolute agreement, I find that I had a subsequent interview with Mr. MacVeagh about the 10th or 12th of October, about a month after the interview at Long Branch, in which also the question of compensation was a matter of discussion. I cannot say definitely now what occurred at the one interview and what at the other; but I do say that in conversation between us it was arranged that the terms which I have named were the terms on which I was to be employed and paid. Mr. Brewster had not been at Long Branch, so the question as to compensation thus became a matter of more or less conversation between him and me

and we considered and agreed that should be arranged definitely, particularly as it appeared likely that Mr. MacVeagh was to go out of office, though Mr. Brewster had not at that time the remotest idea of coming in as Attorney-General. We wanted to have the matter settled, and to have it made in some way a matter of record, so that there should not be any subsequent trouble about it. We had a meeting at Mr. Brewster's house in Philadelphia, and the question of compensation had been brought up, and Mr. MacVeagh had said to us, "You and Brewster talk the matter over;" and the letter of Mr. Brewster to Attorney-General MacVeagh, dated October 28, 1881, was written after we had talked the matter over. The committee will perceive that Mr. Brewster in his letter makes no difference between the rate of compensation for services, whether they are performed at home or away from home, but in my conversation with Mr. MacVeagh there was a very marked line drawn between those two cases. I notice that in this connection Mr. MacVeagh refers to a letter to Acting Attorney General Phillips, which he says we must have seen, and which seems to show that there was no agreement as to our fees. I never saw or heard or dreamed of that letter, until I read it in the copy of the printed testimony which you were kind enough to give me after I was examined here the first day. I have always supposed that it was a recognized thing that there was a contract agreed upon and made with the Attorney-General of the United States at the rate I have stated.

Q. You mean with Attorney-General MacVeagh?—A. Yes, sir; and I do not hesitate to say that if I were dealing with a private client, where it would be possible to establish the claim in court, I am perfectly confident that it could be established. Mr. MacVeagh would not naturally remember the whole of this matter in so great detail as I would; but I had felt so badly treated by Mr. Devens, the former Attorney-General, in this matter of compensation, and had experienced the way the Government generally acts in such cases, that I was determined that I would not have anything to do with this employment unless I had an agreement as to the rate at which I was to be paid, and I have always considered that I had such an agreement, and I think so now.

Q. Did you at that time change your mind and consider that the Attorney-General had a right to make a contract?—A. I had by that time changed my mind.

Q. You remarked a while ago that at Long Branch you and the Attorney-General thought he had no right to make a contract?—A. Well, it was assumed that he had no such right.

Q. Then at this interview at Philadelphia you had changed your mind?—A. As I have already said, I went and looked at the statute, and the statute seemed to me not only to give him the right very clearly, but to make it his duty to make an agreement. It rather seemed to me to impose that obligation upon him.

Q. Did Attorney-General MacVeagh agree to that view?—A. I did not discuss that question with him at all. Here is what the statute says: "The Attorney-General shall"—

Q. I am not speaking about the law now, I am speaking about the facts.—A. Well, I am going to call attention to the statute. It provides that, "The Attorney-General shall, whenever in his opinion the public interest requires it, employ and retain in the name of the United States such attorneys and counselors-at-law as he may think necessary to assist the district attorneys in the discharge of their duties, and shall stipulate with such assistant attorneys and counsel the amount of compensation."

Now it looks to me as if that law makes it the duty of the Attorney-General to make a contract.

Q. Now, I want to get you back to what I was asking about.—A. All right, sir.

Q. This letter that you have just read is dated on the 28th of October, is it not?—A. I think it is.

Q. You had then changed your mind in relation to the right of the Attorney-General to make a contract or agreement?—A. I had then examined the law and made up my mind that the Attorney-General had a right to make an agreement.

Q. Had Attorney-General MacVeagh changed his mind on that subject?—A. I have said that I had no conversation with him on the subject. I do not remember that at either interview the question of his power in that matter came up, but the conversation at Long Branch proceeded, on my part, on the theory that he had not the power to make an absolute binding contract, and I supposed he had the same view.

Q. I understand that. Now, you say that you regarded the agreement with you as an absolute contract after you and Mr. Brewster had communicated with Attorney-General MacVeagh?—A. I so regarded it.

Q. Did you see Mr. MacVeagh's letter to Acting Attorney-General Phillips, of October 31, three days later than the date of the letter which you have just read?—A. No, sir.

Q. You have read Mr. MacVeagh's evidence?—A. I have read that letter here; I never saw it before.

Q. It appears that he did not concur with you as to his power to make a contract?—A. I presume not; I never saw that letter before.

Q. It appears, then, that the Attorney-General did not regard that as a contract?—A. I do not know whether he did or not. The letter which I have read was written asking for certain things, among them \$2,500. I promptly got the \$2,500, paid on account. I never heard of any dissent from that letter. I remember, though, that there was a correspondence of Mr. Brewster with the Attorney-General. I consider that prior to that time I had my verbal contract with him, which was substantially the same, except that Mr. Brewster had, I think, by inadvertence, failed to put in a proviso that there should be less compensation when we were performing service at home than when we were called away from home.

Q. You understood it to be a contract entered into between you and the Attorney-General?—A. Yes, sir. Bear in mind that I was not present when this letter was written by Mr. Brewster.

Q. I understand that; but at that time you understood that the statute authorized the Attorney-General to make a contract, and when you made this proposition, and it was accepted, you understood that to be a contract, and understood that you were employed at a specific sum?—A. At some of the interviews prior to the 25th of October, or as the result of all the interviews, I so understood; but not at Elberon did I consider that there was any contract made, because I proceeded upon the idea that there was no authority to make it, and that, therefore, there had not been any made.

Q. And you always so understood, up to the time you read this letter in the evidence here?—A. Oh, no; after I got back from Long Branch I looked at the statute and came to the conclusion I have stated.

Q. That is not the point. You always understood that you were employed at a specific sum until you read Mr. MacVeagh's letter in his testimony here the other day?—A. Yes, sir; I would have sworn to it right along.

Q. Mr. Brewster was the Attorney-General?—A. Not at that time.

Q. But afterwards?—A. Afterwards.

Q. This letter of Wayne MacVeagh, dated October 31, was on file in the Attorney-General's office, was it not?—A. I do not know; I never saw it.

Q. Did you have any conversation with Attorney-General Brewster afterwards as to whether that proposition had been accepted?—A. No, sir; I never had any conversation of that kind with him, but I told him time and again that I was employed under a contract.

Q. I want to call your attention to Mr. MacVeagh's letter to Mr. Phillips, printed on page 39 of the record, which reads:

402 WALNUT STREET, PHILADELPHIA, *October 31, 1881.*

MY DEAR SIR: I beg to inclose you a letter I have received from Messrs. Brewster and Bliss, special counsel in the star-route cases. Considering the professional standing of these gentlemen, I have no doubt you will agree with me in thinking it proper to pay them the fees they now ask; but they are doubtless aware that you cannot bind the Government to any contract in the matter which would control the action of my successor when appointed.

I think, however, it would be proper for you to say that you recognize fully the gravity of the cases in their charge, the very great amount of labor connected with their prosecution, and the entire reasonableness of their expectation that the Department will compensate them fairly and justly for the industry, zeal, and ability it knows they will devote to the matter in question.

Of course, I only offer these suggestions for your consideration and decision, for you are acting Attorney-General, and I am only awaiting the appointment of my successor, but I thought you would be glad to know my views on the subject.

Sincerely yours,

WAYNE MACVEAGH.

Hon. SAMUEL F. PHILLIPS,
Acting Attorney-General.

Q. You say you had never seen that letter until you read it here?—A. I never saw that, never heard of it, never dreamed of its existence, until after my examination here the first day, when the chairman was kind enough to give me the testimony previously taken, and I saw that letter in Mr. MacVeagh's testimony.

By Mr. STEWART:

Q. That letter of Mr. MacVeagh's was addressed to the Solicitor-General?—A. Yes, sir. I never heard of it before; it was a revelation to me.

By Mr. FYAN:

Q. Did you ever make any new contract with Mr. Brewster, as Attorney-General?—A. No, sir; I never made any new contract with him.

Q. Then you were acting under what you supposed to be a contract made with Mr. MacVeagh when you and Mr. Brewster were engaged as counsel in these cases?—A. Yes, sir.

By the CHAIRMAN:

Q. Please state what you understood to be that contract, and the rate of compensation for which it provided?

Mr. STEWART. He has already stated that.

A. I understood that I was to have \$100 a day during all the time that I was absent from my home on business connected with these cases, and that I was not to be required to travel nights. Then, I understood that as to services rendered at home at my office it was impossible, from the nature of the case, to make any bargain beforehand, but that I was to be paid for such services what was fair and proper, the amount to be left substantially to the Attorney-General for his decision at the time or

times when bills were rendered; but I also understood that I was to have my expenses paid. Then there was something said like this: that if there was a long argument, involving a continuous strain upon the brain and the body, I did not consider that \$100 a day paid me. Then, there was the further condition that, of course, if these cases were prolonged, but not so much as to necessitate continuous absence from home and prevent my attending to my private business, I should think there ought to be some reduction from these rates.

Q. Some rate below \$100 a day?—A. Yes. But that if the business kept me away continuously from my office, so that my other business could not be attended to, there should not be any reduction. I would not undertake to say that it was ever expressed, but I will say that I always felt that on the one hand Mr. MacVeagh would not have employed me on such terms and under such circumstances if it had been supposed that the service was to be very prolonged, while, on the other hand, I would never have consented to be employed if I had supposed the service would be so prolonged as it turned out to be.

Q. Then, briefly, your contract was this: \$100 a day for the time you were actually employed?—A. Away from home.

Q. And if the service was prolonged and laborious, your compensation was to be more?—A. Not absolutely if it was prolonged and laborious generally, because that condition was specified with reference to argument—if the arguments were prolonged and laborious.

Q. But that for service performed at home you were to be paid less?—A. Yes, sir.

Q. Then the contract had an outlet at both ends?—A. Yes, sir.

Mr. FYAN. I have no doubt as to how Mr. Bliss understood this contract. What I have been endeavoring to direct his attention to is how Mr. MacVeagh understood the matter, and whether it was a contract.

Mr. STEWART. Mr. MacVeagh has stated in his letter how he regarded it.

Mr. FYAN. But I want to know of this witness if that matter was brought home to the attention of either Attorney-General MacVeagh or Attorney-General Brewster by him.

The WITNESS. It never was.

Mr. FYAN. It takes two to make a contract.

Mr. STEWART. Mr. Chairman, allow me to remark that, having all the facts before us, the committee can judge for themselves whether it was a contract or not.

The WITNESS. I simply say that I regarded it as a contract, and if I were dealing with a party that I could sue, I am satisfied that I could establish such a state of facts that I could recover.

Mr. FYAN. Of course we will come to our own conclusions, as a committee; but I want to know on what facts this witness came to his conclusion on that subject.

The WITNESS. I have given them to you, all that I know.

Mr. FYAN. I wish to call your attention again to the latter part of this letter of Attorney-General MacVeagh.

Mr. STEWART. That was not a letter addressed to Mr. Bliss.

Mr. FYAN. No; but it was on file in the Department.

Mr. BLISS. I had no access to the files of the Department.

Mr. FYAN. What I want to find out is where the responsibility rests in the matter. If Mr. Brewster knew of this letter, and knew what Mr. MacVeagh's idea was, it follows as a consequence that he must have known that Mr. MacVeagh had decided that he had no authority to make any such contract as Mr. Bliss claims he did make.

Mr. STEWART. Yes, but Mr. MacVeagh recognizes the propriety of the charge, and merely says or implies that he cannot make a *contract* because he is not empowered by law to do so.

Mr. MILLIKEN. A contract that will *bind his successor*.

Mr. FYAN. Then the question arises with us as a committee whether this was a proper contract to be made or a proper charge to be allowed, and if it was improper who is responsible for the allowance.

Mr. STEWART. And that is a question that Mr. Bliss naturally does not want to discuss.

Mr. FYAN. Of course, but we shall have to discuss and consider it.

The WITNESS. I relied upon the conversation I had with Mr. MacVeagh.

By Mr. FYAN:

Q. Did you understand from Mr. MacVeagh that the arrangement was to bind his successor?—A. At that time I assumed so, and yet I will not undertake to say that anything of that sort was stated. I know we were discussing the question of fixing the rate of compensation, in view of the fact that Mr. MacVeagh was soon going out of office, for he had told me, with great frankness and in detail, about his going out. He informed me of that confidentially as early as the day after President Garfield's funeral, and therefore the subsequent conversation had reference to the idea of his going out of office.

Q. Did he not inform you, however, that he could not make a contract that would be binding on his successor?—A. Never; he never said anything of that sort; that question was not up for discussion between us.

Q. Then, upon what hypothesis did you conclude that there was a contract existing between you and the Attorney-General?—A. On the hypothesis of my conversation with him, in which I had told him what I should expect to be paid.

Q. What did he say in reference to that?—A. Oh, he agreed that it was right.

Q. What did he agree was right?—A. He agreed that he did not think \$100 a day was excessive.

Q. Was that the verbal contract?—A. Yes, sir; a verbal contract.

Q. Then Attorney-General MacVeagh agreed with you that the proposition embraced in your letter was not unreasonable?—A. My letter that I am now reading.

Q. And that he would allow you that amount?—A. Yes, sir; that proposition, however, you will bear in mind, was different from the proposition of Mr. Brewster in his letter, inasmuch as mine was \$100 a day when away from home, while his made no distinction between services rendered at home and those rendered away from home.

Q. Then you understood that the contract you had made was a verbal contract between you and Attorney-General MacVeagh?—A. Yes, sir.

Q. And that he assented to it as well as you?—A. Yes, sir; that is the contract which I have briefly stated to the committee.

By Mr. FYAN:

Q. Then you did not rely upon the contract in that letter?—A. I relied upon the letter of Mr. Brewster, not as making a contract for me, and I never claimed its terms. I never have claimed \$100 a day for services rendered to the Government at New York, but always less.

By Mr. MILLIKEN :

Q. You stated to Mr. MacVeagh what your terms would be, and that they would be \$100 a day?—A. Yes, sir.

Q. And he employed you?—A. Yes, sir.

Q. Did he ever afterwards say that he did not wish to continue to employ you on those terms?—A. No, sir.

Q. Did Mr. Brewster know what price you had claimed for your services in your arrangement with Mr. MacVeagh?—A. He did, sir.

Q. And did he, as Attorney-General, continue to employ you?—A. He did, sir. The first bill that I rendered——

By Mr. FYAN:

Q. (Interposing.) If Mr. Brewster understood the terms of your employment, why is it that he differs with you about it, as he does in his communication to Mr. MacVeagh?—A. Well, he understood my terms, because I told him.

By Mr. MILLIKEN :

Q. Mr. Brewster's terms would have given you more?—A. Yes, sir. The first bill that I rendered was made out in detail. I received \$2,500 on account somewhere about the 1st of November. There was a bill made out in detail until the end of December, specifying everything by days and in full detail. That bill was approved by Mr. MacVeagh, the \$2,500 that I had received on account being credited upon it; and when I received it, with Mr. MacVeagh's approval, I received also a message through Mr. Brewster that the bill was very moderate. I understood that message as referring to the charge therein made for services other than those away from home.

By Mr. STEWART :

Q. In that bill which you rendered you charged in accordance with the terms as you had talked them over with Mr. MacVeagh?—A. Precisely.

Q. And he approved the bill?—A. Yes, sir.

By Mr. FYAN :

Q. Now, you have read this letter of Mr. MacVeagh's, in which he uses this language : "Of course, I only offer these suggestions for your consideration and decision. You are acting Attorney-General, and I am only awaiting the appointment of my successor." If you have read that letter you have seen that he entirely disclaims any authority to make a contract.—A. I have read it.

Q. That letter, you say, was never brought to your knowledge until you came here?—A. Never.

Q. Never until you were put upon the stand here as a witness?—A. I never heard of it, or dreamed of it, until I came here.

Q. In those cases which you have enumerated where they allowed you those large amounts per day did it take a good many days to prepare the cases for trial?—A. Yes, sir. You may not have observed what I say here in this letter about that.

Q. You do not mean to convey the idea that there was only one day given to the examination of those cases in which those large fees of \$300 and \$350 a day were allowed?—A. Not at all, sir. But I do mean to convey the idea, that while of course there was a good deal of time devoted to the cases out of court, the preparation was made largely by the assistants of the district attorney, who almost always took part in the trial of the cases; and, you may think it an abuse, but I can say

further that in some of these cases very likely I did not myself appear in court at all, but they were tried by my assistants.

By Mr. HEMPHILL:

Q. But still you were paid those fees?—A. Yes, sir; paid them right along. But that does not tell the whole story. I have got a memorandum of a number of fees which shows the current rate of fees certified by the United States circuit judges in New York. I have known them to be certified by Judge Blatchford as circuit judge, by Judge Johnson as circuit judge, by Judge Woodward as circuit judge; by Judge Shipman, the district judge in Connecticut, who held court in New York a great deal; by Judge Smalley, of Vermont, who held court in New York; by Judge Wallace, and by all the judges—they all certify them as just and reasonable and proper charges for a lawyer practicing in New York according to the rates of charge prevailing there.

By the CHAIRMAN:

Q. Does not the law require the district attorney to cover into the Treasury all fees accruing to his office in excess of a certain amount—\$6,000?—A. It does require him to cover in all *fees*, but not these charges. These are counsel fees. That question has been passed upon in court again and again. You will bear in mind that the district attorney in such a case is defending an individual, not the Government.

Q. Section 835 of the Revised Statutes provides that “no district attorney shall be allowed by the Attorney-General to retain of the fees and emoluments of his office, which he is required to include in his semi-annual return, for his personal compensation, over and above the necessary expenses of his office, including necessary clerk hire, to be audited and allowed by the proper accounting officers of the Treasury Department, a sum exceeding \$6,000 a year, or exceeding that rate for any time less than a year.”—A. You see these *fees* are not required to be included in the emolument return or anything of the kind. They are entirely outside of it.

Q. Then, in relation to the district attorney in New York, the law provides that “there shall be paid to the district attorney for the southern district of New York in addition to his salary at the rate of \$6,000 a year such sum as shall be necessary, together with the costs and fees allowed him by law, to pay such amount as may be fixed by the Attorney-General for the proper expenses of his office. But nothing in this or in the preceding section shall forbid the allowance of additional compensation for services in prize causes,” &c. You are familiar with that provision?—A. Yes. You will see in this report made by the Secretary of the Treasury that it appears that the district attorney there is getting \$4,000 additional as a special allowance. In 1877 or 1878, when Mr. Sherman was Secretary of the Treasury, the Department made an order that while the judges in New York certified to the district attorney these additional counsel fees, so far as related to customs cases, there should be paid in any such case only—

Q. (Interposing.) What are the net emoluments of the district attorney of the southern district of New York?—A. What they are now I do not know, but I have no doubt that they are about \$16,000 a year.

Q. What were they when you were district attorney?—A. They varied. For two years they were between \$30,000 and \$34,000 a year. I got 2 per cent. in revenue cases which in one year must have amounted to over \$10,000.

By Mr. HEMPHILL:

Q. Those fees were in suits brought by individuals against Government officials whom you were appointed to defend?—A. Yes, sir.

Q. And the officials were not required to pay the fees out of their own salaries?—A. No, sir; there are probably six thousand cases pending against the collector of New York. He is, of course, merely the nominal defendant, but when a suit is brought, it is against him and not against the Government. You sue William H. Robertson as an individual, claiming that he has taken so much money from you improperly.

By the CHAIRMAN:

Q. Please state now the whole amount that you have received for your services as special counsel in the star-route cases, and the number of days you were employed.—A. I think the aggregate of the bills that I have presented, including services and expenses, foots up \$57,732.15. Of that, \$4,342.20 is for expenses, leaving \$53,389.95 for services. Up to a certain time my expenses were paid. Then the accounting officers of the Treasury took the ground that, though the Attorney-General might employ a man as counsel at \$110 a day, the Attorney-General in his calculation estimating \$10 of that for expenses, yet that he must certify it all as counsel fees, and that if he put in anything as "expenses" they could not allow it; that while the Attorney-General might divide it up in the records of his own office, and say that \$100 was for services and \$10 for expenses, he must certify the whole amount as counsel fees. They have paid expenses in such cases from time immemorial; they have paid them not only to me, but to everybody else, until about a year ago, but from that time down I have had no payment for "expenses."

Q. You included then what would otherwise have been your charge for expenses in your charge for compensation?—A. No; I have never made out any bills in that way. I have lost the expenses since that time. Of the amount that I have charged there still remains due to me I think about \$6,700.

By Mr. MILLIKEN:

Q. The amount you have stated includes all the bills you have presented whether paid or not paid?—A. Yes, sir; that is my recollection.

By the CHAIRMAN:

Q. Up to this time?—A. No. There is a small bill since that. This only comes down to the 19th of November. There is a small bill since that of perhaps \$1,500; I have not a memorandum of it. That will make more money that has not been paid me.

By Mr. FYAN:

Q. What is your total claim against the Government, including legal services, expenses, and everything?

Mr. HEMPHILL. Both what has been presented and what has not been presented.

The WITNESS. I think I have got no claim that has not been presented. It does not occur to me that there is any other item that I have a right to claim pay for. As to the accounts I have presented I do not remember that last account precisely, but I think it is about \$1,500. Assuming that one to be \$1,500, the accounts I have presented would amount to \$59,232. Of that some \$4,342 would be for expenses, actual expenses for which I have filed vouchers; \$8,200 is still unpaid.

Q. Your whole charge against the Government for legal services and expenses amounts to \$59,000 and some odd dollars?—A. You may say that, assuming the last bill to be \$1,500.

By the CHAIRMAN:

Q. How long a period do those charges cover?—A. From the 10th of September, 1881, until February, 1884.

Q. Are those accounts rendered for so much each day or so much each case?—A. They are rendered by the day.

Q. Mr. Gibson stated in his testimony that your account would average \$150 or \$156 a day.—A. Well, the committee will see in a minute that that is not true. After seeing that statement, I took occasion to go over Mr. Gibson's calculation. He says, in the first place, that I was paid \$6,000 on the 1st of January, 1882, and he says that amounts to \$170 a day. That was a bill rendered as from the 9th of September to that date, and the bill on its face shows by dates, going through each day, fifty-four specified days of absence from home, at \$100 a day, and shows also some time in New York. The committee can see that from the 9th of September to the 1st of January is about 100 days, and yet Mr. Gibson says I was paid \$170 a day. The way he has calculated it is this: I was paid \$2,500 on account, some time in November; so he reckons the \$6,000 in this bill as from November down, though on the face of the bill it shows dates away back of that, and the \$2,500 is credited on account.

Q. But did he not reckon it upon the number of days of actual attendance in the city of Washington?—A. No, sir; because the bill on its face shows 52 days' attendance in the city of Washington.

By Mr. FYAN:

Q. How many men did you convict that were punished?—A. We convicted only two.

Q. Were they punished?—A. No, sir.

Q. Was the verdict set aside?—A. Yes, sir; on our motion.

Q. Then there has been nobody convicted or punished?—A. No, sir.

Q. Did you collect any money for the Government?—A. No, sir; I have not gone into the insurance business.

By Mr. STEWART:

Q. Was it your fault that the parties were not convicted?—A. I do not think so. If it was, I should like somebody to point it out, and I should like this committee to ask the presiding justice whether he thinks it was my fault.

Then Mr. Gibson takes another bill which was paid on the 4th of March, and he says that it is at the rate of \$140 a day. There are specified 48 days of absence from home, in addition to time in New York. The bill of expenses shows 55 days away; he is nearer right, of course, in his calculation in this case. He takes another bill and figures it out at \$156 a day. Now, in point of fact, taking from the date of the preceding bill, there are 83 days for which the charge is \$6,800. It is very evident that Mr. Gibson counts simply the days for which he finds hotel bills annexed to my account, showing that I was here, and takes no account of the time spent in coming or going or anything of that sort.

Q. Did you charge for the time spent in coming and going?—A. I charged for the time I was away from home. But if I could get home by going on a day that I was here, of course there was no charge. For instance, if I went home Friday night instead of staying here over Saturday and Sunday, if I could save any money to the Government I went home, and made no charge for that time.

Q. You usually came on the limited express train, did you not?—A. Oh, I came on every train. I should think that I came oftener on other

trains than on the limited express. I got in the way of leaving New York on a train that leaves about 3 o'clock, and traveled a good deal on that train.

Q. State whether you charged \$100 a day for the days on which you were traveling between Washington and New York?—A. Always, provided I had not charged that day for attendance in Washington. I charged from the time I left home until I got back home.

Q. Then, if you traveled two days in the week, one day coming here and the other going back, you charged for both those days?—A. No; I bore this in mind, that if I went home in that way I had no right to charge the Government more than it would have had to pay if I had staid here.

Q. You stated when you were here before that you went home at times for the purpose of attending to your private business; did you charge for those occasions?—A. I went home in the early stages of the case, for the purpose of attending to my private business, and I never charged for those occasions.

Q. You did not charge for the time you were in New York, but you did charge for the time coming and going?—A. No, sir; save in this way: Suppose I was here on Thursday night, and the case adjourned until Monday, I had my option to either stay here or go home. If I had staid here I should have charged for Friday, Saturday, and Sunday. Now, in those cases I generally went home, and I usually charged for the two days but not for the third.

Q. Did you charge \$100 a day for your legal services on Sunday?—A. I think my bills will show that I charged for services on Sunday. I know I worked as hard on Sundays as on any other days.

By Mr. FYAN:

Q. You say you do not think it was your fault that the defendants in those cases were not convicted. Whose fault do you think it was?—A. I think it was the fault of the jury.

The CHAIRMAN. If you have any further statement to make about your bills you may proceed.

The WITNESS. Then, again, Mr. Gibson says that one of my bills covers only seventy-one days, making an average of \$211 a day. In point of fact there were covered by that bill one hundred and twenty-four days. That bill covers the first trial, including eighty or ninety days in court. The next bill of \$4,000 he says shows an average of \$133.35 per day, but in point of fact that bill covered one hundred and fifteen days.

Q. But you were not engaged in serving the Government during all those one hundred and fifteen days?—A. I was thirty-seven and a half days serving the Government here in Washington. The next bill is \$5,700, which he reckons as covering only fifty-one days, and puts at the rate of \$111 a day. In point of fact the period covered by that bill is sixty-nine days, and during that period I was absent from New York on the business of the Government fifty-eight days. Those are the only bills that he analyses in that way. I say distinctly that I have never charged more than \$100 a day, except possibly during the period covered by the trial. I have not figured it up, but it is possible that there is in that account some additional amounts of perhaps \$10 or \$15 a day for the time spent in the arguments that were imposed upon me in that case. I say that it possible, but I do not think that even for that period it is the fact.

By Mr. STEWART:

Q. If you have no objection, I would like to have you state what your time is worth per day in the practice of your profession in the city of New York?—A. Well, sir, it varies, but I consider it a mighty poor day in New York when I don't get \$100 a day.

Q. I mean taking the year through?—A. I mean that, taking the year through, I consider it a mighty poor day when I do not get \$100.

By Mr. MILLIKEN:

Q. What is your practice in New York worth for a year, three hundred and sixty-five days?—A. Well, that is trespassing a little or going into private matters. I will state, however, that while my increase for services has varied in amount, it has oftener been above \$30,000 than below that for some years back. After I ceased to be district attorney there was a time when it was much less.

By Mr. HEMPHILL:

Q. Do you mean the share that comes to you individually?—A. Yes, sir; from my own clients and work.

By Mr. MILLIKEN:

Q. How long have you practiced law?—A. Twenty-five years.

Q. How do the charges which you have made against the Government compare with the charges that you make against individuals?—A. In the last previous services that I rendered away from home I was employed by the united steamship owners of New York. I was away 23 days and they very gladly paid me \$5,000.

By the CHAIRMAN:

Q. What case was that?—A. It was in connection with the tax on immigrants.

Q. Was that a case against the Government or against the State of New York?—A. It was a question with the State of New York. I have not gone around and asked for information about the proper rate of charges or about the charges of other people, but various gentlemen, some of whom are known to the members of this committee, have voluntarily come to me and made statements on the subject. For instance, I met, the other day, Mr. Dorman B. Eaton, the chairman of the Civil Service Commission, who was for a great many years a lawyer in large practice in New York. He and I have been associated together in a great many cases. He said to me: "I see they are finding fault with your fees, \$100 a day. I did not for years and years, before I went out of practice, think of leaving New York City for less than \$100 a day." I met Mr. Joseph H. Choate, who came to the bar in New York at the same time that I did, and is about the same age in the profession, and he voluntarily said the same thing. Another gentleman with whom I talked on the subject was Mr. Willard Bartlett, whom the Democrats have just elected a judge of the supreme court in New York, and who is a younger man than I am at the bar. I did consult Mr. Bartlett incidentally—that is, I talked with him at the time I rendered the bill for \$15,000 for the first trial of the Dorsey case, and he said that the bill never should have been less than \$25,000; and I have met him since this committee has been in session, and he remarked that the idea of questioning \$100 a day to a New York lawyer was an absurdity. Mr. Dunning, Mr. O'Connor's former partner, sent me a message to the same effect. I mention these cases simply as showing the rates paid to lawyers of standing at the New York bar.

Q. During the time that you were engaged as special counsel for the

Government in the prosecution of the star-route cases, did you attend to any other business for the Government than the star-route cases?—

A. I attended to other business for the Government, but not for compensation.

Q. Did you attend to any business in which the parties on the other side employed you at a compensation?—A. In one case I did.

Q. What was that?—A. I filed a brief with the Attorney-General on behalf of the banks of the New York Clearing House with reference to the liability of the banks to pay the tax on their circulation or dividends under the tariff act of 1883. I filed that brief, and Mr. Sidney Bartlett, of Boston, filed a brief, and also some Philadelphia lawyer, I think.

Q. That was a question of the remission of taxes under the law?—A. No; it was a question whether the banks were liable to pay the tax. The period for paying the tax was a six-monthly period, and the law said that the act abolishing taxes should take effect at a certain time, and the question was whether they should be collected for a fraction of two or three months.

Q. In that case what amount of fees did you receive from those private parties?—A. In that case I got, I think, \$1,000.

Q. Was that all?—A. I think so.

Q. How much was involved?—A. I don't know.

Q. Was there not \$4,000,000?—A. For my clients, nothing like that.

Q. What was the amount of the fee?—A. I think it was \$1,000; it may possibly have been \$1,500.

Q. Did you appear before the Commissioner of Internal Revenue?—A. No, sir.

Q. Did you appear before any officer of the Government?—A. No, sir; I never appeared before anybody. I staid at home, and prepared a brief which I made turn upon the decisions of the Supreme Court of the United States in the legacy and succession cases.

Q. What was done with that brief?—A. Well, the Attorney-General decided the matter the way I argued, but he dissented substantially from the view I took.

Q. You were successful in the case, though?—A. I was successful.

Q. And you received a fee of \$1,000?—A. I think so.

Q. That was during the time that the star-route cases were pending?—A. Yes, sir; that brief, allow me to say, was prepared upon two days, for which no charge was made to the Government.

Q. Then you devoted only two days to that matter?—A. Only two days; I did not consider it a hard or difficult matter; I considered that the Supreme Court had decided it; I went into the internal-revenue office and asked their position on the question, and I found that they were really of the opinion that there was no fair question involved, but that as the question had been raised, the opinion of the Attorney-General ought to be taken. The New York Clearing House got somewhat alarmed, and Mr. Tappan, I think, the chairman of the clearing house, came to me and wanted to retain me; they said it was not a matter of sufficient importance for them to go to Mr. Evarts, and they came to me because they thought I would perhaps do it cheaper; so I made a bargain then and there, and I think it was for \$1,000.

Q. Was there any other case in which the Government was interested in which you appeared during this period?—A. I do not recall any.

Q. Were you not employed in the case of the San Pedro and Cañon Del Agua, in New Mexico?—A. I believe I never got any fee there, though I ought to have had one. I was employed to this extent: The

defendants wanted the case tried. The parties out there were seeking to proceed by injunction; seeking to tie them up by injunction and not by a trial, and I was employed to urge a direction from the Attorney-General's office to the district attorney to proceed by a trial of the case and not by injunction.

Q. Did you procure an order from the Attorney-General to discontinue the injunction proceedings?—A. I procured an order. I do not think it was an order to discontinue the injunction proceedings, though.

Q. What was the order?—A. I never saw it; what I got was a direction to the district attorney to proceed by trying the case, and not to undertake to anticipate it by injunction.

Q. You say there was no request made by you for instructions to the district attorney in New Mexico to discontinue the injunction proceedings in that case?—A. Well, that was the tangible result to which it would come, but I don't think that was the form of the request. The parties came to me and said: "We are perfectly willing to have a trial and to dispose of the case on the merits, but if we are to be tied up by injunction we object to it; we have spent \$800,000; we are just ready to start a mill, on which we have spent \$400,000, and we don't want to be tied up in that way."

The Attorney-General referred it to some one of his assistants. It was a case in which the name of the United States was allowed to be used for the benefit of a private claimant, but the Government was not really interested in the litigation.

Q. It was interested to the extent of declaring the patents void upon which the litigation depended?—A. Yes; and then to let these other parties come in upon the lands. The United States might in a certain phase of the case have got certain benefits, but very trifling ones. There may have been some of the lands on which there was no other claim, but certain claimants claimed the lands, basing their claim upon the fact that the patents issued by the United States under which the defendants held were fraudulent, and they were seeking to set them aside and were allowed to use the name of the United States to do it. Now, I think there had been no injunction, but I think the district attorney had given notice that he was going to move for an injunction, and our application was that the district attorney should be directed to try the case instead of proceeding by injunction. The Attorney-General referred the matter to a law clerk.

Q. What law clerk?—A. I do not know. I never saw him. The Attorney-General referred the case upon the question whether they could find an instance where the name of the United States had been used in that way, and the parties had been allowed to proceed by injunction, and I think the report was——

Q. (Interposing.) Who employed you in those cases?—A. Mr. George William Ballou.

Q. He has stated, I am informed, that he paid you a fee of \$5,000?—A. He did not pay it.

Q. Did he pay you any fee?—A. I have got a claim against him now, or I did have a claim before he failed. I think he did make me a small payment, but my impression is that my whole charge against him was \$1,000.

Q. How much of that has he paid?—A. I guess he has paid half. When Ballou & Co. failed I dismissed the matter from my mind. Up to that time I looked upon it as a good asset.

Q. Your service in that case was during the time when the star-route

cases were pending, was it?—A. It was after my *retainer* in the star-route cases. I came from New York specially to attend to that case.

By Mr. MILLIKEN:

Q. Did you charge the United States in any instance for time which was occupied in trying any other cases than those in which you were employed by the United States?—A. No, sir; I was very careful on that point.

Q. Now, you have stated what your practice in New York is worth, and what you have charged in individual cases, and I will ask you this question: Have you charged the United States for the time during which it employed you in the star-route cases any considerable amount more than your practice was worth to you during the same length of time?—A. No, sir. I cannot stop to do it now, but I will say now that I propose to ask the committee to hear read various letters which I wrote to the Department of Justice from time to time commencing in the summer of 1882, asking to be allowed to retire from the cases on the ground that it did not pay me to stay in them.

Without concluding the examination of the witness the committee adjourned.

WASHINGTON, D. C., April 3, 1884.

GEORGE BLISS recalled and further examined.

By the CHAIRMAN:

Question. I asked you yesterday about your services in connection with the Cañon del Agua Mining Company. Did you present a brief to the Attorney-General in that case?—Answer. Since yesterday I have been shown this paper from the Department of Justice, which is a request that I presented to the Attorney-General with reference to the San Pedro and Cañon del Agua Company. After stating the facts, the nub of the application is in this:

In view of the facts already stated as to Judge Axtell's declarations, and in view of other matters, which it would be long to explain upon paper, the company desires your intervention. It does not now ask you to interfere with the suit, though it believes that as a new matter you would not authorize its commencement; but it does ask that you will, by telegraph, direct district attorney of New Mexico to take no proceedings to enjoin the company until you can have a full opportunity to examine into the question of the propriety of such a course. * * * To seek an injunction against innocent parties on such a ground, before a final adjudication, would be in the highest degree unjust. I think I may assert, without fear of successful contradiction, that no instance can be found in which the United States has so proceeded.

The reference there is to these facts: The Government had issued a patent that had been located; the company had spent \$400,000 in erecting a mill upon the premises, and were just about to commence operations, when there was notice of a motion for an injunction by parties claiming that the patent was void, and in behalf of the company I made that application. The Attorney-General indorsed the application as follows:

Referred to Mr. Dutton, who will at once report as to the correctness of Mr. Bliss's statement in paragraph No. 2, that it has not been the practice to seek an injunction in such cases.—February 8, 1883.

I saw yesterday Mr. Dutton's report, in which he says:

I have examined the case of the Cañon del Agua, a Mexican grant, confirmed and patented by the United States, which patent the Attorney-General has brought into

court by proceeding in equity with a view to a judicial determination of the question whether the said patent was illegally issued or fraudulently obtained.

Pending this issue the ownership of the land is in the patentee or his assignee. Until trial and judgment against them they have full right to treat and use the property as their own.

But an injunction has been moved for by the United States attorneys to prevent these owners from going on with their mining operations.

These attorneys have gone beyond their instructions. They were directed by bill in equity to try the *validity of the patent*—nothing else. To do this there is no need of an injunction. Let the case be tried first on an open, square issue. I am not aware that in a proceeding to set aside a patent or to try the title to lands an injunction was ever allowed. I am quite sure that in such cases the Government does not ask for injunctions against the use of lands by parties holding under the Government's grant.

It is clear to me that the Attorney-General, who controls this suit, should interpose and stay the hands of the district and special attorneys and direct them to proceed no further with the injunction until he shall have time to examine into the matter and to hear both sides.

Q. The Attorney-General issued the instructions you desired, did he?—A. I have now seen for the first time the instruction that he did issue. He sent the following telegram:

DEPARTMENT OF JUSTICE,
Washington, February 9, 1883.

SIDNEY M. BARNES,
Santa Fe, N. Mex.:

In the Cañon del Agua cause stop all injunction proceedings. Let the case be tried upon open, square issues as you were before instructed, and not upon injunctions.

BREWSTER,
Attorney-General.

Q. You appeared in this case for the Cañon del Agua Company?—A. Yes, sir.

Q. You stated yesterday that you were employed in this matter by Mr. George W. Ballou?—A. Yes, sir; he was the president of the company, I think.

Q. And you stated that he had paid you part of your fee?—A. Yes; I think it was \$500. As I said before, I don't recollect the amount distinctly. After Mr. Ballou failed I dismissed the matter from my mind.

Q. Did you see the Attorney-General at all in reference to the cases?—A. I simply wrote that application out, and handed it to the Attorney-General, and said to him: "I have but one request to make upon that subject. It is a question requiring immediate action. I wish you would refer it to some one who will examine it and report to you." He did not tell me who he was going to refer it to, and I never saw the report until now. The next thing I knew of it was that a few days afterwards he informed me that he had sent a dispatch to New Mexico, directing that the injunction proceedings should be stopped.

Q. It seems that the Attorney-General referred this matter on the 8th of February, and his telegram was dated on the 9th, so that he did act promptly?—A. He did act promptly. I think now, on the whole, that I did know that the reference was to Mr. Dutton.

Q. Did you speak to Mr. Dutton about it?—A. Never sir. Mr. Dutton and I are not on good terms. He was chief clerk of the Department when Judge Pierrepont was Attorney-General and I was district attorney in New York, and things did not go very smoothly between us. Let me say that I find, on looking over these papers, that Mr. George C. Hazelton, a member of Congress from Wisconsin at that time, was appointed special counsel in the case, and I find also in various papers in the case the name of the Hon. William M. Springer.

The CHAIRMAN. I am very glad that the witness has called attention to that fact, because it gives me an opportunity to state what I had to

do with the matter. I was in New Mexico when this suit was pending in the summer, and there were some serious difficulties there growing out of the matter. The judge had imprisoned three attorneys and their clients for disobeying a supposed injunction that he had issued in the case.

Mr. FYAN (jocularly). You were practicing there? [Laughter.]

The CHAIRMAN. No, sir; but I was there, and I found that a friend of mine was in prison. I visited him in prison and signed a dispatch, together with the Delegate from that Territory, Mr. Luna, and the ex-Delegate, to the President of the United States, remonstrating against the course of the presiding judge in that respect. That, I think, is the only paper on which my name appears.

Mr. MILLIKEN. This committee, in its wanderings in all directions and towards every point of the compass, is liable to catch up everybody at some time or other. [Laughter.]

The CHAIRMAN. That is all right; and if I am never accused of anything worse than visiting those who are in prison I shall be content.

Mr. STEWART. Did you get \$100 a day? [Laughter.]

The CHAIRMAN. Not a cent. I was an officer of the Government and not entitled to any fee even if I had rendered any service.

The WITNESS. Were you differently situated from Mr. Hazelton?

The CHAIRMAN. He was an ex-member.

The WITNESS. Not at the time he was appointed. He was appointed while he was a member of Congress. Let me say further that on looking over the papers I find that what I stated yesterday distinctly appears, viz, that the Government had no actual interest in the order. It was a mere question between the two claimants, and whichever way it was decided it would not inure to the benefit of the Government.

The CHAIRMAN. It was believed when I was out there that the imprisonment of those parties might lead to very serious breaches of the peace, and for the purpose of averting that, at the request of some of the interested parties, I, in conjunction with the Delegate and the ex-Delegate, signed that dispatch to the President.

The WITNESS. I do not remember whether you asked me yesterday the general question whether I had been in any other matter connected with the Department.

The CHAIRMAN. I did.

The WITNESS. I was employed in one case; in that case, I was employed to procure the Attorney-General to bring a suit to set aside the Maxwell land grant, and he did order it. The suit was brought on the complaint of settlers, but with the allegation that there was a million or two millions dollars worth of the land that belonged to the Government; I understand that the suit was brought. My interest in the matter ceased after that application, but I understand the suit has been brought and the Attorney-General sent one of his assistants, Mr. Fay, to the West to look after it, and he has prepared a careful opinion and has, I am told, reached the conclusion that the Government has very large interests to be established by that suit.

Q. That is a case pending at Denver?—A. Yes, sir; that suit was brought at my instigation after there had been a refusal to order it; I got a fee there, \$400.

Q. Were you representing the Government?—A. No, sir; my fee came from the settlers. They claimed that the patent had been wrongly located and that it had lapped over on to their lands; that a patent intended to cover 100,000 acres had been, by misconstruing the boundaries, made to cover five or six hundred thousand, and in that way

had lapped over not only onto the Government lands but onto the lands of settlers.

Q. Were you interested also in the Johnson cotton case?—A. Never with the Department of Justice.

Q. With any of the other Departments?—A. I was interested with the Treasury Department. I was asked to secure the dismissal of the suit.

Q. Where was that suit pending?—A. In New York. The Secretary of the Treasury declined to dismiss the suit, and employed special counsel and went on with the case; tried it; paid I don't know how much special counsel fees, and was incontinently beaten.

Q. Who represented the Government in that case?—A. Mr. Douglass Campbell as special counsel. It was an informer's case, brought by a special agent of the Treasury Department.

Q. Was Mr. Herrick an assistant attorney for the Government?—A. Mr. Herrick was one of Governor Woodford's assistants. He has since died.

Q. Did he represent the Government as an assistant attorney?—A. I do not know.

Q. What was done?—A. I made an application and an argument before the Secretary of the Treasury on the ground that Mr. Sherman, as Secretary of the Treasury, had promised in writing that before suit was brought Mr. Johnson should have an opportunity to present his case and to be heard out of court, and that that promise had been violated, and I asked that the suit should be discontinued. The Secretary of the Treasury said substantially that the suit having been commenced, and there being an interest of the informer in the case, and it having remained after Mr. Sherman went out of office, and gone over to another Secretary, it could not be discontinued.

Q. You were not successful in your application to have it discontinued?—A. No, sir.

Q. What was involved in that case?—A. The Government started out by claiming \$60,000 or \$70,000, but before they got done they got up to claiming \$500,000 or \$600,000; it was a cotton claim; it was being prosecuted on the halves. It was tried in New York, the trial was a long one, and the Government was beaten.

Q. When was it that you appeared before the Treasury Department in that matter?—A. I do not know exactly. I have been trying to fix the time, but have been unable to do so.

Q. Was it during the time you were engaged in the star-route cases?—A. I think it was. You may take it that it was.

Q. It was at least since these prosecutions began?—A. Undoubtedly.

Q. It was under Mr. Folger's administration of the Treasury?—A. Undoubtedly.

Q. Did you receive compensation for that service?—A. I did, sir.

Q. How much?—A. Three hundred dollars, I think.

Q. Did you devote much time to that matter?—A. Well, if you want me to state it, I devoted one Sunday in New York to looking over the papers.

Q. Another Sunday's work?—A. Yes, sir; the star-route cases demoralized me. I subsequently came here and filed, as I recollect it, a written application or brief. I think I devoted perhaps an hour to preparing that application here. The papers were voluminous. It was the case of a cotton agent who had collected and turned into the Treasury more cotton than any other agent the Treasury had appointed. He had received from Mr. McCulloch, after an investigation, a certificate of dis-

charge in which his services were spoken of in the highest terms. Then ten years later came on the informer's suit, with an allegation that he had not accounted for all of his cotton. Harrison Johnson was a wealthy citizen of Columbus, Miss., and represented to me by friends as one of the few men there who had remained loyal to the Union during the entire war.

Q. Was there any other case in which you assisted the Government or private parties during the time you were engaged in the star-route cases?—A. I don't remember, but I think it very probable there was. I considered myself at liberty to practice my profession, and I did it; but always bearing in mind that I should never make any charge to the Government for any day on which I did any business for a private client.

By Mr. MILLIKEN:

Q. Did you charge the Government for any days except days when you were engaged in serving the Government?—A. I did not, sir. And I may say here and now, without going into the question of relative income from my business for any given year, that it is capable of demonstration that pecuniarily, in dollars and cents, I have lost more money in a professional way than I have received by being employed by the Government in these cases.

By the CHAIRMAN:

Q. Do you refer to the time during which you have been employed in the star-route cases?—A. Yes, sir; distinctly.

Q. Does your private business, business in which the Government is not interested, pay you better than you have been paid since you have been engaged in the star-route cases?—A. Yes, sir.

By Mr. MILLIKEN:

Q. Is your private business worth \$100 a day?—A. Yes, sir; ordinarily it is. It has not been, of course, since I have been engaged in these cases. For instance, take my private business the present year, when I have been practically out of the cases, it has fallen off almost entirely.

Mr. FYAN. I understood the witness to say before that his annual income from his profession was \$30,000.

The WITNESS. Not every year. Sometimes it is higher and sometimes lower.

By the CHAIRMAN:

Q. During the time you were district attorney?—A. During that period I had no time for private business. When I went out of that office I did not have a case or a client.

Q. Did I understand you to say that your fees and emoluments as district attorney amounted some years to \$32,000?—A. There were two years when they amounted to between \$30,000 and \$33,000.

Q. The emoluments of that office of district attorney?—A. Yes, sir; that is money that I could not have got if I had not been in that office.

Q. You said, also, that you thought the emoluments of the office at present were quite large?—A. I don't know about that, but I see by the returns that in addition to the salary of \$6,000, the district attorney gets \$4,000 allowed in customs cases on the certificate of the judges, and I think the other emoluments of the office must make the total reach several thousands higher.

By Mr. STEWART:

Q. Is that any more than a man who is competent to discharge the duties of that office in New York ought to have?—A. In my opinion, it is not. I told the chairman here the other day that you could not get any competent lawyer there for less than \$10,000 or \$12,000.

By the CHAIRMAN:

Q. How much does the judge get?—A. The judge gets an absurdity, three or four thousand dollars, and the result of that has been that when the district judgeship was vacant the profession had to go around begging lawyers who had private means to take the office.

Q. Have you a good judge there now?—A. He is a good judge. He has private means. When the office was vacant the judges and the prominent lawyers got together and sat down and looked over the list of lawyers to select a fit man for the position, and the first consideration was to see whether the man had means which would enable him to take the office, and the next to bring pressure to bear upon the men selected to try to get them to become candidates. They did me the honor to try to get me to become a candidate, Judge Blatchford did.

Q. But you would not consent?—A. I simply said that I did not think my make up was judicial.

Q. Did Judge Blatchford agree with you in that?—A. Well, he did not file a dissenting opinion. [Laughter.]

Q. Was it your opinion that your appointment as special assistant attorney-general, or special assistant district attorney, did not disqualify you from accepting employment in cases against the Government, and receiving fees for that service?—A. I did so consider.

Q. Had you read in that connection section 366 of the Revised Statutes?—A. I do not remember it now.

Q. Which provides that the special assistants to the Attorney-General and to the district attorney shall take the oath required by law to be taken by district attorneys, and shall be subject to all the liabilities imposed upon them by law?—A. I remember that section, sir.

Q. Is not the district attorney forbidden by statute from accepting any case against the Government, or representing any person in antagonism to the Government?—A. I don't remember whether he is or not. I don't recall that provision. Very likely he is, but I do not remember.

Q. Would not you be under the same liability?—A. Well, sir, that is a matter of law which you must judge of for yourself.

The CHAIRMAN. The district attorney would not be allowed, undoubtedly, to take any case against the Government or to prosecute any case in any Department against the Government and receive compensation therefor; and it might be a question whether a special assistant, who is by law made subject to the same liabilities, would not be also forbidden by the statute to do those things.

By Mr. MILLIKEN:

Q. Are you employed by the Government now as a special assistant attorney-general?—A. No, sir; I never was a special assistant attorney-general. I was a special assistant district attorney. I was to have been appointed a special assistant attorney-general, but my commission was made out as a special assistant district attorney.

By Mr. FYAN:

Q. Were you not appointed a special assistant district attorney to go before the grand jury?—A. Subsequently I was by Mr. Corkhill, but

that was an entirely different matter with which the Attorney-General had nothing to do.

By Mr. MILLIKEN :

Q. Do you occupy that position now?—A. No, sir; Mr Corkhill is out of office, and I am out of office *ipso facto*.

Q. So you hold no position under the Government now?—A. No position, I am happy to say.

By Mr. STEWART :

Q. Your appointment was expressly for the star-route cases?—A. Yes, sir; for them and for nothing else.

By Mr. MILLIKEN :

Q. Has your employment in that connection ceased?—A. Yes, sir; I suppose there is no harm in my saying that the employment of all the counsel in the case except, perhaps, Mr. Ker, has ceased.

By the CHAIRMAN :

Q. When did that take place?—A. Within a week or ten days.

By Mr. MILLIKEN :

Q. How many cases connected with these star-route matters has the Government now pending?—A. There are now pending of the indictments probably thirty, speaking in round numbers. I do not know whether there can be said to be any civil suits pending or not. I don't think any civil suits have been commenced. I have tried to have some commence, but I do not think that any have been commenced.

By the CHAIRMAN :

Q. When did your employment cease?—A. Last week.

Q. You state that all the counsel, except Mr. Ker, are now out of the cases?—A. Well, I know that Mr. Merrick is out of the cases.

Q. What has become of the case of the United States *vs.* Brady and Kellogg? I thought Mr. Merrick appeared for the Government in that.—A. He did; but after the order of Judge Wylie in court the other day, Mr. Merrick ceased to appear, and has retired from all the cases—not on that account necessarily, but after that order it became clear that that Kellogg case was not to be tried substantially, or at all events properly tried. Mr. Merrick is out of the cases; that is a fact within my knowledge.

By Mr. HEMPHILL :

Q. Why are all the counsel out of the cases?—A. I am out of the cases because the Attorney-General—I have repeatedly asked to be allowed to go out, and I have some letters here on that subject which I may ask the committee to let me put in evidence; and Mr. Brewster finally wrote me a letter last week agreeing that I should go out.

By Mr. MILLIKEN :

Q. Was that in answer to a request on your part to be let out?—A. No; not in answer to a request made at the moment, though I had previously made such a request. I will give you a history of that presently and will ask leave to read these letters.

By Mr. FYAN :

Q. Before you come to those letters let me ask you, was there ever an indictment prepared against Salisbury?—A. My impression is that Mr. Ker prepared indictments against all those parties whom the grand jury

failed to indict. He did not perfect the indictments, but he got them all blocked out up to such a point that if bills had been found the indictments could have been completed within twenty-four hours, probably.

Q. Was Salisbury included in those indictments?—A. My recollection is that he was, and yet I would not be certain—oh, yes; he was.

Q. What was the reason that he was not indicted?—A. I cannot tell you.

Q. Was it on account of the absence of any witness?—A. I do not think there was any witness on the Salisbury routes that was absent.

Q. Do you know a witness by the name of Parrish?—A. No; I don't recall any such witness. I do not recall the absence of any witness that was essential.

Q. You do not think he was a material witness?—A. He may have been a good witness; but on the Salisbury routes which we put before the grand jury we had all the witnesses that we wanted; in fact, I had some witnesses on the Pembina and Fargo route, and also on the Wells and Hamilton routes, that I did not put on the stand.

Q. Were you here about the middle of June, 1882?—A. Yes, sir.

Q. Who represented Mr. Salisbury here?—A. Colonel Ingersoll.

Q. Did not General McKibben?—A. I don't know General McKibben by sight, and I have never understood that he represented Salisbury.

Q. Do you know that there were propositions made to Salisbury, or to McKibben, as his agent, that unless he paid a given sum of money by the 15th of June, this indictment would be presented to the grand jury and this witness Parrish brought on here?—A. I never heard of any such thing. If there was any such proposition made, it was made by somebody not *then* in the cases.

Q. Were Cook and Gibson in the cases then?—A. They were not.

Q. Do you know whether this indictment prepared against Salisbury was carried down to a certain part of this city and there presented to these parties, and they told that if this money was not paid by the 15th of June that case would be presented to the grand jury and this witness Parrish brought here?—A. There never was any indictment prepared by any one authorized in the case that was so taken, because Mr. Ker had an office in the Department of Justice, and the indictments were kept there very carefully, and unless there was infidelity——

Q. Do you know that the money was paid on the 16th of June?—A. No, sir; I never heard anything about it until this minute. If Mr. Salisbury paid any money he was fooled.

Q. Or if anybody paid it for him?—A. Or if anybody paid it for him.

Q. You have no recollection of the witness whose name I have mentioned?—A. No, sir; no present recollection; but in the Salisbury cases that were before the grand jury, we had no deficiency of witnesses.

Q. Then what reason do you give for not pressing the indictments? The Salisburys had a larger share in these routes than anybody else, hadn't they?—A. The Salisbury combination were understood to have had a large share, and I have no doubt they had, but Salisbury put forward his stage-drivers, Luke Voorhes, and other parties.

Q. Nominal parties?—A. Yes, sir; and, of course, in some cases where we were told that these men represented Salisbury, in point of fact they did not.

Q. But your belief was that the Salisbury combination represented a large per cent. of the total interest in these routes?—A. Yes, sir; a very large per cent. They had, however, this thing in their favor: they were

actual mail contractors performing the services themselves, while the Dorseys were mere speculators in mail contracts, proposing to make their profit by letting the contracts out to other parties.

Q. If I understand you, it was not on account of the absence of any witness that there was a failure to indict Salisbury?—A. I never heard that it was because there was not any essential witness absent. Of course there may have been some witnesses that I never heard of who would have testified to actual corruption; but there was no one absent that I ever heard of whose absence would have made any difference so far as the indictment was concerned.

Q. Then how do you account for the failure to indict Salisbury?—A. Well, sir, I told you yesterday about the Vinita and Las Vegas route; and there is one thing that ought to be said which occurred to me after I went away. It may be that the grand jury were influenced somewhat by the petitions. There were a large number of petitions in regard to those routes, and while I do not recall the particular cases, it would be very extraordinary if among those petitions there were not letters and recommendations from Senators and Representatives, and the grand jury may have thought that although it was not wise to make the expedition, or to do this, that, or the other thing about the routes, yet that in view of those papers there was not sufficient evidence of corrupt intent. They *may* have thought so; I do not know.

Q. You are speaking now of the grand jury of which Mr. Mitchell was foreman?—A. Yes, sir.

Q. Did you immediately after the adjournment of that grand jury say that you were perfectly satisfied with their action, that there was perhaps one other case that should have been included, but that on the whole their action was satisfactory to you?—A. No, sir. I said that of the cases we presented to them, there was perhaps one in which they had been right in not indicting.

By the CHAIRMAN:

Q. What case was that?—A. The Soledad and Newhall route; and I think possibly I did say that I could see how by the absence of the witness of whom I have spoken they might consider the Vinita and Las Vegas case crippled, though I could not so regard it.

By Mr. F'YAN:

Q. Were there a large number of witnesses brought from a great distance who were not used before the grand jury?—A. There were witnesses brought here on the Wells and Hamilton route, and also on the Fargo and Pembina route, who, I think, were not used. They were tendered to the grand jury, but it was found that they would testify to things as to which the grand jury thought their testimony would be merely cumulative, and, therefore, I think there were probably three or four witnesses in all who were not examined; that is my present impression.

Q. Did you buy the mileage accounts of any of those witnesses at a discount?—A. No, sir. I may say here——

Q. Did you buy any of them at all?—A. Never. Let me tell you what I did: The Government, in its wisdom, has passed a law that there shall be no advances made to anybody. I was at one time \$8,000 out of my personal pocket in advancing money to bring witnesses here, and for that money so advanced I had not a dollar of security. If any witness had not obeyed the subpoena and come here, I could not have got my money by any possibility, and always during the first trial I was

out of pocket for advances to witnesses to pay their board bills, and so on, not less than \$5,000; I never got a dollar interest on that money, and when Congress passed a bill increasing the witness fees of witnesses from west of the Mississippi River, and the witnesses had gone home, I remitted the amounts to them by money order or registered letter, and paid the expenses of transmission out of my own pocket, and have here the receipt for it.

By Mr. MILLIKEN:

Q. You mean that you remitted to them the increased fees?—A. Yes, sir; every cent of it, and paid the registration fees on the letters, and I have the receipts here.

By Mr. FYAN:

Q. That is the way you got possession of the scrip of those witnesses?—

A. I never got possession of their scrip; I never had any of it.

Q. How did you get your pay?—A. I will tell you; for instance, there was a post-office inspector, Mr. Sharp, the present general inspector of the Post-Office Department, going from San Francisco up into Oregon to get witnesses, and I think I advanced out of my own pocket over \$2,000 or \$4,000 which was sent to him; he paid the witnesses sufficient for their traveling expenses to enable them to get here, and took their receipts; those receipts were sent to me; I held them here, and when the marshal was to pay the witnesses, they were paid upon my order, and I would give an order to pay the fees to the full amount, and would give one of the clerks in my office the man's receipt for the money that he had already had.

Q. The receipts were turned over to the marshal as vouchers?—A. No, not those receipts; the marshal took a full voucher, but my clerk went with the witnesses when they drew their pay and got their \$600 or \$800, or whatever it was, they turned over the amounts they had already received; there was one man, however, that "beat" me—got the whole of his money and went West without paying me.

Q. Do you say that this post-office inspector of whom you speak was Inspector Sharp, of Saint Louis?—A. That particular inspector who went up into Oregon was Mr. Sharp; he is now chief of the inspectors; that money was simply advanced to him to pay the witnesses so that they might be able to come here.

Q. And you think you advanced as much as \$8,000?—A. I know that at one time I figured it up and it was as much as \$8,000; some of the witnesses came from a long distance; there were witnesses from away up in Dakota and Montana, and they were quite numerous; I advanced money to be put into the hands of the different post-office inspectors to enable those witnesses to come to Washington.

By Mr. MILLIKEN:

Q. Why did you make these advances?—A. The witnesses could not come here without it. They were mostly stage drivers and men engaged in that sort of business, who were unable to pay their traveling expenses for such a distance, and the statute provides that there shall not be any money advanced to witnesses. Money could be advanced to a bonded officer, but the trouble was that that bonded officer would not advance the money to the witnesses, and there was no way out of the difficulty except by raising the money outside. We were trying for some time, but when I sent out subpoenas for the witnesses to appear before the first grand jury, the question came up how we were going to get them here, and it was very clear that they could not travel those

long distances for nothing, and as they were men who had no means to pay traveling expenses this difficulty arose, and I finally solved the difficulty by going to my bank account. I went and made a loan and paid interest on it and never got the interest back.

By Mr. STEWART :

Q. Did you make any profit on that transaction?—A. Not a cent; I lost. I lost in that way probably \$200 or \$300, but incidentally there was another class of expenses paid. There was a witness here from Missoula, Mont., who received a dispatch stating that one of his children was dead, and the rest of his family down with the scarlet fever, and that his family were suffering. That witness had been examined, but we knew that he would be attacked and we wanted to retain him here to use him in rebuttal. When he got this dispatch he was nearly crazy, and, of course, entirely unwilling to stay. He said that his family were out there in the woods and were suffering, and that he must go to them. But we wanted him to stay, and the result was that we used the Signal Service telegraph to have money advanced to his family, and the money was advanced and he staid. We did not get a report of the amount advanced until after the man had been paid his fees and had left, and the consequence is that I am that much out of pocket.

By Mr. FYAN :

Q. Did you hear Mr. Walsh testify?—A. Yes, sir.

Q. Did you remark that you were utterly disappointed with the character of his testimony?—A. Never, sir. Let me say, further, about these advances, that while my accounts to the Government show, as I have said, \$4,000 or \$5,000 of expenses, in point of fact I paid out here for clerk hire and other matters which were not charged to the Government, matters where the clerks were working squarely on the Government business and nothing else, a considerable amount. I can put my finger on \$2,890 that I paid out of my own pocket, and I have no doubt I paid more.

Q. That you never received back?—A. That I never received back and never presented any claim for. They were clerks that I had to employ, and time and again I worked the clerks all night. I suppose Mr. Merrick did the same thing in the way of paying clerk hire, though not to the same extent; and Mr. Ker the same, though not to the same extent. I think neither of those gentlemen, however, advanced money to witnesses.

Q. I understand you to say that you never made the remark that the testimony of Mr. Walsh entirely disappointed you?—A. Never, sir. Mr. Walsh testified so many times that I do not know what I may have said about some of his testimony.

Q. Did he testify before the Mitchell grand jury?—A. He testified before three grand juries, two of which I was before, and also twice in court.

Q. But you have no such recollection of making such a remark as I have asked you about?—A. No, sir; I have not. I recollect making a remark about Mr. Walsh's testimony before one of the grand juries, but it was not of that nature.

Q. You speak of having lost faith in Mr. Cook and Mr. Gibson?—A. Yes, sir.

Q. Do you know of your own personal knowledge of any act of infidelity on the part of either of them?—A. No, sir; I know of no act of infidelity. I do not want to look farther than Gibson's report on the

Phoenix and Prescott route, in which he reported practically that there was no fraud on that route. No, sir; I know of no particular act. They did not take me into their confidence.

Q. I understand that you were dissatisfied with them and were satisfied, in your own mind, that they were selling you out to the other side?—A. I became satisfied that they were selling the Government out to the other side, and I have given the facts which led me to that conclusion.

Q. Do you know of any fact within your own personal knowledge which justified that conclusion?—A. No, sir. There are certain other facts which I do not know even sufficiently to testify to; but when you get Mr. Woodward on the stand you will get the benefit of some of them.

Mr. STEWART. I suggest, Mr. Chairman, that if there are any witnesses to be called to testify to something Mr. Bliss has said it would be proper, in questioning Mr. Bliss about the matter, to suggest the time and place.

Mr. FYAN. I understand the rule to be that if you wish to impeach a witness you must refresh his memory in that way. I do not know that I desire to do any such thing as that in relation to these other matters, or in relation to this combination to prevent the Salisburys from being indicted; but there may be some witnesses on that point.

The WITNESS. I would be very glad to have them brought before the committee. I will now, with the permission of the committee, read some letters which show that I have from time to time desired to get relieved from service in these cases. The first is a letter which I wrote the Attorney-General after the termination of the first Dorsey trial:

SEPTEMBER 14, 1882.

DEAR SIR: The result of the Dorsey trial precipitates upon me a troublesome question which I have foreseen, but which I hoped to avoid by postponement.

I assume under the circumstances a second trial of this case will be deemed a necessity this fall or in the early winter.

I think a new trial would take much less time than the original one, still it must take many weeks. I came into the star-route cases reluctantly and under assurances, which I fully believed, as did those who made them, that they would require in the aggregate only a few weeks absence from my office and home, and much less prolonged labor than has in fact been indispensable. They have been found to require my continuous absence for weeks and months; for one entire year they have absolutely prevented me from undertaking any new business.

For this, as you know, no compensation which I could ask or you could grant could be a sufficient return, for it is the breaking up of a business built up by twenty-five years of devotion to my profession. Were this the only consideration, though, in view of the circumstances in which I came into the cases, I should deem myself at liberty to retire from them; still I should be disposed if it was thought important to make the sacrifice which would be required by my remaining in hope that some arrangement would be made by which less constant absence on my part would be required.

But the condition of my wife's health introduces another and imperative consideration. Circumstances have rendered her always, far more dependent on me than is ordinarily the case between husband and wife, and we have in nearly thirty years never been so much separated as during the last year. This has affected her spirits and indirectly her health. She is now in a condition which requires constant watching and care, a freedom on her part from all anxieties and annoyances, and a keeping up of her spirits.

She feels that my continued and constant absence would be greatly injurious to her, and an invalid's fixed belief in such a matter cannot be trifled with. The effect on her spirits of constant or continuous absence, or the prospect of it, would certainly be very injurious.

Under these circumstances, I desire that some arrangement should be made by which I may be allowed to retire absolutely from the star-route cases, or by which the "laboring oar" in them should be in other hands, and my presence in Washington should be exceptional.

Indeed, I do not see how I can undertake to promise *any* attendance in Washington which would be of any advantage to the Government.

Of course I need not assure you that I could not under any circumstances lose my personal interest in the cases or my conviction that every consideration requires that they should be vigorously pursued, and I should feel not only bound, but anxious at all times to render any aid in my power consistent with the facts to which I have called your attention.

Nor does it seem to be that my absence need be seriously felt.

The same ground is to be traveled over in the new trial which has already been traversed, and new counsel will have no difficulty in filling my place, though he will, of course, until he becomes familiar with the facts, labor under some disadvantages, but this will be an inconvenience to himself, not an injury to the case.

Your obedient servant,

GEORGE BLISS,
Special Assistant United States Attorney.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

I got no answer to that except a verbal message from Mr. Brewster, who was away from Washington at the time, that he had received the letter and would consider it when he returned to Washington.

By Mr. HEMPHILL:

Q. When was that letter which you have just read written?—A. On the 14th of September, 1882, after the termination of the first Dorsey trial. Subsequently, on the 7th of October, I wrote Mr. Brewster to say that my wife's health had improved, and that that consideration, therefore, which would have made me go out, whether he consented or not, had ceased to have force, and that the other reason, the loss from remaining in, was not one which, as a lawyer, I would have a right to insist upon if my withdrawal was thought likely to injure the cases. I got no definite answer to that. On the 25th of October, I wrote again, as follows:

OCTOBER 25, 1882.

DEAR SIR: I stayed over in Washington on Saturday to talk to you, and hung around the Department all day, but you were absent or busy; so I must resort to paper.

I appreciate your kindness and note your remarks passing my account. It was not intended to be a bill strictly confined to the days of trial but rather to cover these and bring up back charges from January 1 last. But that is unimportant.

When I went into the cases no one foresaw they would take so much time. Had I foreseen it I never should have consented on *any* terms to go into them. I, however, fully informed those who employed us, of the terms. I ordinarily charged and they agreed to them. When you came into the cases you agreed with me also.

I say this only as preliminary to what I am about to say.

A new trial commences in a few weeks. It will take most of the winter continuously. These, and also one or two other cases which *must* be tried. The condition of my wife's health has so much improved since I wrote you some time since that what I regarded as the imperative reason binding upon, overriding all questions of professional duty, has ceased to exist. I feel, therefore, not at liberty to withdraw if it is desired that I should remain, but rather than give such continuous attendance in Washington as I have hitherto done, I should prefer to withdraw, though on the other hand my belief that we shall succeed on the next trial, and especially that we shall convict Dorsey with the new evidence, gives me a desire to see this case at least through.

I therefore leave the question of my remaining in your hands, suggesting that it should be speedily settled; that you confer with my associates and see if they do not concur with me in thinking that I could be dispensed with without serious injury to the case.

In considering the question of withdrawal bear in mind that, with Merrick, Ker, and myself in the cases, the counsel fees must necessarily, in the amounts paid to each and in the aggregate, become large, so large that there will be and must be public criticism. No reduction in the rate of fees, even if counsel consulted to them, would prevent this. Lawyers' bills always have been and always will be criticised when paid by the public, no matter what their rate.

As for myself, when I went into the cases I distinctly notified those who employed me that I knew my bills would be criticised any way, and that I should therefore charge what I thought my services were worth, what others paid me, and would

accept, personally, any criticism made, and they must be prepared for their share. You are not necessarily their successor in this respect, and have a right to reduce the number of counsel and their bills. I only desire to suggest these considerations to you. I have floating in my brain a theory of adjustment, under which no counsel would be dispensed with, and expenses would be reduced. But it has not crystallized into shape, nor if it had, could I place it on paper without liability to misconstruction.

One thing more. The First Comptroller has hung up my bill, saying he wanted to see you. I call your attention to, and assume you will now allow any subordinate officer to revise an exercise of discretion which the law rests in you.

Your obedient servant,

GEORGE BLISS.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

Subsequently, in connection with the civil suits, as late as July, 1883, I wrote Mr. Brewster the following letter:

JULY 24, 1883.

DEAR SIR: One or two paragraphs in the newspapers remind me that it is possible I may be held to a responsibility while not aware of it.

As to the civil suits in the star-route cases I wrote you at some length—early last month I think it was—and also had a conversation with you. I called your attention to the fact that while I had been employed in these cases by Postmaster-General James, and with your approval had done something in them, I did not feel sure that you had ever directly sanctioned my employment; that if the cases were to be tried in various forms where jurisdiction could be got, I did not feel that I ought to undertake the responsibility of trial, nor that you ought to incur the expense of employing me to leave home continuously; that, however, if it was desired I should be glad to continue in charge of all that class of cases as special counsel, preparing the papers, selecting and securing jurisdiction in the places where it seemed probable the fairest trial could be had, and instructing the district attorney or whoever else might be selected to try the cases. This is to be done at a compensation to be fixed by you, either beforehand or after the work was done (though the statute probably looks somewhat to the former, which, however, is, I think, not followed in practice).

This idea seemed in conversation to commend itself to you, yet I did not understand that you decided it finally.

Now I see it stated in the papers that I am “in charge of the civil suits.” If you consider me so, please say so, and I will endeavor to justify your confidence. But, on the other hand, consider yourself free to act wholly without reference to the past.

Yours, truly,

GEORGE BLISS,
Special Assistant Attorney.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

Whoever has charge of the cases, permit me to say that they should be brought with great, and, so far as the pleadings are concerned, in a form outside of the usual ones in P. O. cases.

To that last letter Mr. Brewster replied that the civil suits should remain as they were, with nothing done about them. To the other letters he finally replied, saying that I must not retire, that he would not consent, that I must remain in the cases.

By the CHAIRMAN:

Q. Did he communicate that to you verbally or in writing?—A. I think he communicated it in writing. He certainly did say so in writing. On the 15th of September, 1882, he wrote me from Newport, in reply to the first letter that I have read here, saying:

I can hardly entertain the idea of your leaving the case. You have been and are essential to its safe and prosperous conduct. Do not proclaim this proposed withdrawal in any way till we see each other, or at least until I can be back in Washington and be able to adjust matters. As to this I must respectfully and kindly insist that you will withhold your public or private announcement of it in any way for the present.

Then on the 9th of October, 1882, he wrote me again :

As to the star-route cases and their future management. As I wrote you before, I will leave things, as far as you are concerned, suspended and subject to future necessities and future considerations.

On the 25th of October he wrote me as follows:

DEPARTMENT OF JUSTICE,
Washington, October 25, 1882.

MY DEAR SIR: Your letter of the 25th of October is now in my hand. I read it with great care. It is a letter such as I supposed you would have written to me.

In the star-route case you have done your duty faithfully, industriously, ably, and with the strictest integrity. Your bill I indorsed and mean to stand by. I regretted that so large a sum at once was asked for, and wished you had presented it at different times before, so that you might have collected it by installments. What was agreed to be paid to you by those who retained you must be paid to you; good faith must be kept with you. In allowing it I have not merely exercised a discretion; I have only ratified what others contracted to do.

As to the future, my conviction is that your presence in these cases is essential, and it is my desire that you will remain in them. The good of the cases requires your presence, and every consideration of prudence would make your absence a thing to be regretted. However, we will talk further or write further about this hereafter. It is a happy thing that the health of your wife will permit you to act in them.

As to your colleagues in the case, I have not conferred with them, for Mr. Ker is away, and I only retained Mr. Ker for a special duty, because you asked for such a person, and that was the preparation of the pleadings. He has been of value since then in many other ways, but the general charge of the case I did not confide to him. I intended that he should be detailed to act under your immediate and special direction in the preparation of the pleadings, and in such other duties as you might require him to do. Mr. Merrick was retained to fill the vacancy occasioned by my withdrawal.

Upon reflection I would prefer, as at present advised, to leave the matter of your remaining to be the subject of our consideration. It is due to your position and dignity that it should be a matter that would rest exclusively between us. The case is under my control officially, and I am responsible, no matter what is done, and that responsibility I would assume after a conference with you hereafter. At present hold yourself as being advised by me that any suggestion of withdrawal is declined.

You intimate that you have in your mind some unadjusted thoughts as to the arrangement of compensation in the case, which you would convey to me hereafter. I will gladly hear anything you have to say, for I never have yet had a conference with you without feeling its advantage. My presence in the case is no cost to the Government, and what is paid to other counsel for their services is but their due. In view of all this, it seems to me that, expensive as the cases are, by my presence without any fees paid to me for extra and unusual labor, the cost is abated and reduced *pro tanto* from that which would otherwise be added to them.

I again congratulate you upon the happy recovery of your wife, and send to you my most cordial, earnest, and sincere expressions of unbroken good feeling and constant regard for you.

Truly yours, with respect,

BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
Care Bliss & Shley,
No. 160 Broadway, New York.

POST SCRIPTUM.—I inclose you a copy of the Cincinnati Daily Gazette, in which there is a letter written upon the subject evidently of pursuing those Salisbury cases. I desire you to give them attention. Do not let any delay benefit them. The statute may run, and then you would be censured. As to the tone of the article, I understand it and the purpose of the people who wrote it. I do most earnestly call your attention to this Salisbury matter, and all these other cases where the statute may possibly run.

BREWSTER.

Q. That was between the first and the second trial of the Dorsey case?—A. Yes, sir. Prior to that, on the 28th of September, he had written me from Newport, urging me to go on and prepare for the second trial, and stating that he must have the second trial of the cases in December, and that I must go on.

Subsequently, in the fall of 1883, I made another application to be allowed to withdraw.

Q. That was after the second trial?—A. Yes, sir.

Q. Was that a verbal application, or was it made in writing?—A. It was made in writing, but I do not seem to have it here. The Attorney-General replied to me on the 20th of September, 1883, saying:

In the meanwhile I propose to be in Washington myself in the early part of October, and then I will take up your letter and be able to answer it as to the necessity of your presence in the case. I am reluctant to even entertain your suggestion of withdrawal until I confer with Mr. Merrick. I have taken this early opportunity to advise you that the case will not be heard until November, so that you may arrange your business with reference to that fact. As soon after I reach Washington as I conveniently can, I will confer with Mr. Merrick, and then come to a conclusion with reference to your proposed withdrawal from the case or retention in it, which thought, you must remember, has been prompted by yourself, and, if adopted to suit your convenience and your wishes, I will be obliged to reorganize the whole staff of counsel, as intimated in your note to me. However, I will in time advise you, and take especial care not to take you by surprise or have it interfere with your business in New York.

And he subsequently told me that I must not go out of the case.

Q. Which suit was referred to in that letter?—A. That referred to the Kellogg case, which was then expected to be tried, and I represented that I was not important in that case.

Q. Was there any suggestion as to the propriety of beginning civil suits at that time?—A. Not at that time.

Q. When was that matter discussed between the counsel, and what was done with reference to it?—A. Let me finish about this proposed withdrawal. I do not know that subsequently I ever made any application to be allowed to withdraw, but I sought to be allowed not to come here. For instance, on some of the motions that were made, I wrote representing that I did not think I was needed, and that it would simply run up the aggregate of the bills for me to attend, and I recollect that in one case I said that it would be very convenient for me to come to Washington at that time, but that I did not think it was necessary for Mr. Merrick and Mr. Ker and me to be here on the same motion and that as it would increase the expenses I did not think I would come, but I received a peremptory dispatch from Mr. Brewster, directing me to attend. I have not, I think, at any other time, sought to retire, but I may say that I had a theory that during the trial, or during the summing up (the summings up, as you remember, were very long), it was not necessary for all the counsel to remain here, and that it might be so arranged as each counsel got through his argument he could retire, leaving but one counsel at a time to remain there while the others were talking; but I received a letter from Mr. Brewster, dated the 29th of April, 1883, in which he stated that he desired that I should remain during the argument; that I was known to be the one who was very familiar with all the details of the case, papers, &c., and qualified to correct any misrepresentations or mistakes, and that he desired that I should remain. I merely mention that as bearing upon the question of any desire on my part, such as has been alleged, to prolong the case for the purpose of running up fees. The matter went on in that way until last week, when at the time the motion was made to bring on the Kellogg case, I did not come here and the Attorney-General after that addressed me a letter saying he thought the time had now come when he could yield to my repeatedly expressed wishes to go out of the cases.

Q. Have you that letter with you?—A. Yes. Here it is. I will read it.

In re United States vs. William P. Kellogg.

DEPARTMENT OF JUSTICE,
Washington, March 29, 1884.

SIR: To-day, upon an application upon the part of the defendant, Mr. Kellogg, the court ordered his case to be tried upon the 21st day of April, and this makes it necessary for me to express to you a determination I have had in my mind for some time past, and which certainly will not be unpleasant for you to learn, as it conforms to the frequent offers made by you to me to surrender your charge of the star-route cases, to wit, that I will for the future dispense with your services in any of these star-route cases.

I do so for two reasons. First, because there is no necessity for your services; secondly, because it relieves the Government of large expense necessarily incurred by bringing you here, and requiring your action in the cases.

It was for this reason that I did not give you or Mr. Ker notice of this Kellogg matter to-day, for inasmuch as at present Mr. Merrick has had the charge of endeavoring to find Mr. Walsh, he alone was required in court to state what he had done, and how he had done it. All that you had done was made plain in the former application, and I therefore did not think it necessary to expose you to the trouble or the Government to the expense of bringing you here to appear in the case and answer the application, knowing it could not be very agreeable to you to be so vexed with this matter.

Mr. Merrick will withdraw from the cases also. This is a piece of personal information that I give you. He has for some time past, by letter and orally, urged me to be permitted to withdraw. I never have intended that he would try the cases after the vehement charges made by Mr. Kellogg that Mr. Merrick was instigating the cases for malicious reasons. I thought that Mr. Merrick's own dignity of character and self-respect would forbid his taking charge of the case when he rested under such accusation from the defendant, and so Mr. Merrick thought himself. All papers that you have in the star-route matters properly belonging to the Government—all of them—you will please transmit to this Department at your earliest opportunity, for they are of value and it may be necessary to use them at some future day. Of course I do not mean those papers that are strictly your private papers, but I mean those that were received from the Government; and also, without invading your private rights, if there be any that have been prepared by yourself, which if surrendered would be of service to the Government, I desire them. Please give this your early attention.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

GEO. BLISS, Esq.,
Attorney at Law, 160 Broadway, New York City.

Q. Have you responded to that letter?—A. I have not. I received that letter in New York when I was preparing to come here. I did not get it until, I think, the 31st of March. I believe I got it Monday, and I left Monday afternoon for Washington.

Q. Have you conferred with Mr. Merrick with regard to his retiring from the cases?—A. I saw Mr. Merrick last night for the first time for some weeks, and I learned from him that he had retired from the case.

Q. Was it for the reason stated in that letter?—A. We did not go very much into the reasons. It was assumed that that was so. He read that letter and there was no dissent from it. We did not discuss the reasons except that I knew he wanted to go out.

By Mr. FYAN:

Q. There is no special counsel in the cases now except Mr. Ker?—A. Not to my knowledge. I have no knowledge of anybody else being in the cases but Mr. Ker. Mr. Ker is here now, and I suppose is engaged in getting ready for the trial (though I have not asked him about it), and I presume somebody else is to be brought into the case with him, but I have no knowledge as to that.

By Mr. HEMPHILL:

Q. Mr. Ker, you say, is still in the case?—A. I understand so. I have had nothing to do with the Kellogg case. Mr. Walsh set me aside,

and I have had very little to do with that case, while Mr. Ker has had a great deal.

By the CHAIRMAN :

Q. Is that all that you desire to say on that subject of discontinuing your service?—A. Yes, sir.

Q. Now, I desire to ask you what was done by you and the other counsel for the Government in reference to bringing civil suits against star-route parties to recover the amounts improperly received by them from the Government?—A. Well, in December, 1881, the Postmaster-General, acting under the clause of the statute which directs him to take measures to see that any moneys improperly withdrawn from the postal funds are refunded, addressed me a letter, asking me to take charge of the civil suits. There was a question as to whether that clause of the postal laws contained in the Revised Statutes overruled the provision of the Department of Justice act, which provided that no counsel should be employed except by the Department of Justice. I thought they went along *pari passu*. Mr. Brewster was about to become Attorney-General. He saw in the papers what Mr. James had done, and he wrote me a private letter, saying that he had seen that announcement, and that as soon as he reached Washington and became Attorney-General he would approve the action, if that were necessary.

Q. Do you refer to section 4057 of the Revised Statutes relative to the Postmaster-General instituting suits?—A. Yes, sir; that is it. It provides that—

In all cases where money has been taken out of the funds of the Post-Office Department under the pretense that service has been performed therefor, when in fact such service has not been performed, or as additional allowances for increased service actually rendered, when the additional allowance exceeds the sum which, according to law, might rightfully have been allowed therefor, and in all other cases where money of the Department has been paid to any person in consequence of fraudulent representations, or by mistake, collusion, or misconduct of any officer or other employé in the postal service, the Postmaster-General shall cause suit to be brought to recover such wrong or fraudulent payment or excess, with interest thereon.

Then there is the provision in relation to the Department of Justice, which says that nobody but the Attorney-General shall have a right to employ counsel, and my view was that it would require the authority of the Attorney-General for anybody to act.

Q. Was there any difference between the Postmaster-General and the Attorney-General on that point?—A. Not the least.

Q. The Postmaster-General agreed that the Attorney-General must bring these suits?—A. That was the understanding. I said to Mr. James that that was so, and he did not dissent. After Mr. Brewster became Attorney-General he sanctioned my going on, but not in writing, I think. However, I had as much as I could do, and I told him that the statute of limitations could not run against the civil suits, and that in my opinion we had better fight the parties in the criminal cases. Under that retainer, therefore, I did nothing, and all that I considered as done in that connection was the matter in relation to the arbitration. And let me say here about that arbitration that as these men were still contractors, and their contracts were still running, it was possible for the Government at any time to hold their pay, and in that way it would have security for the carrying out of the arbitration arrangement.

Q. In view of the section of the statute requiring suits to be brought, was not that arbitration arrangement absolutely extrajudicial and

illegal?—A. I regarded the arbitration as a matter about which there was doubt as to whether it was enforceable, but it was a one sided arrangement, and if those parties were willing to come in and agree to it I believed it was for the interest of the Government to enter into it.

Q. Would not this statute require a suit to be brought first in the courts, and then the arbitration to be made on the suit, if there was to be an arbitration?—A. If we were proceeding under that statute I think it would, but I proceeded, as to that, on the general idea of the authority of the Department of Justice to seek to recover money for the Government.

Q. Was any specific amount certified to you as chief counsel for the Government in these cases by the Postmaster-General or the Attorney-General as the sum claimed to be due, or found to be due, from the star-route contractors in those cases, and for which civil suits should be brought?—A. Nothing was done in that civil suit matter until pending the Dorsey trial, which ended, I think, on the 12th of September, 1882. We were all pretty well fagged out then, and we went away to take some rest. Subsequently I urged proceeding with the arbitration which, as I have explained, was not done. The matter remained until after the second trial. Before that time, however, Mr. Brewster had intimated to me, in connection with the question of my retainer to proceed in the civil suit, that he thought that matter had perhaps better stand suspended. I had a conversation with him in which I told him that it was very clear to my mind that the civil suits ought not to be brought in Washington.

Q. Why?—A. Because I hadn't any faith in Washington juries. I told him that the suits ought to be brought where we could get jurisdiction. Salisbury lived at Salt Lake City, and I said I didn't think it was wise to bring suit there either.

Q. What was the objection to that?—A. Simply because it was his home, and because I thought the Government of the United States would not have a very good show in Salt Lake City. At all events I expressed the opinion that it would be wise to have these suits brought somewhere in the Western States—Indiana, Illinois, Ohio, or somewhere out there; and I know that after Mr. Gresham came here as Postmaster-General I talked with him about that.

Q. Where could the Government bring those suits and have jurisdiction?—A. Any place where you could get jurisdiction of the persons.

Q. You could get that only where the persons resided, or might be found?—A. Well, I had ascertained that by a little care personal service could be obtained upon all the parties whom we desired to proceed against in localities where both sides would be fairly treated, and I suggested that some attention be devoted to doing it in that way. The other plan would involve bringing suits all over the country, and I suggested that I could not afford to attend to them, and one of these letters that I have read shows the same general idea. That idea I repeated in conversation, and urged in various forms, and it seemed to commend itself.

Q. If these parties who were indebted to the Government by reason of having made illegal or improper charges were willing to arbitrate the cases and to pay the judgments that might be found in arbitration, why could not you have proceeded against them civilly in the District of Columbia or anywhere else and obtained a fair offer from them?—A. My theory about that was this: That after that proposed arbitration proceeding was thrown over and the Government had refused to stand by

it, we were remitted to the position of ordinary litigants, and would have to fight just as if no such negotiation had ever been proposed.

Q. But couldn't you have obtained their consent to the institution of suits and then the reference of those suits to arbitration?—A. I thought with reference to that that perhaps it might have been done. You must remember that in speaking here of the arbitration, I read my letter expressing my own opinion on that subject and calling attention to the fact that perhaps that might be done. The last letter that I saw was a letter to the Attorney-General looking to that view, but I don't know what was done with it. The arbitration was taken out of my hands entirely.

Q. State whether you had any knowledge of the facts as to the responsibility of these defendants, and their ability to pay any judgment that you might obtain against them.—A. I was going on to state what I did about that. Afterwards, as you saw, I addressed the letter that I have read to the Attorney-General, and then in June the Attorney-General asked me to see Judge Gresham with reference to the civil suits, saying that he was very earnest in his desire that they should be proceeded with. I have here the letter of the Attorney-General, which is dated June 4, 1883, and which I will read :

DEPARTMENT OF JUSTICE,
Washington, June 4, 1883.

DEAR SIR: To-day Mr. Postmaster-General Gresham called upon me to learn what had been done with reference to suing these indicted star-route men, under the act of Congress, to recover back the money that they have defrauded the Government of. I told him it was my impression that I had, in conjunction with Postmaster-General James or Postmaster-General Howe, requested you to take charge of those matters, and that you had suspended action in them because of the existing criminal proceedings, thinking it more prudent to wait until they were done. He also alluded to the Salisbury case, and that reference; is very eager about both; wants them both to be prosecuted for the purpose of collecting the money, and thinks it his duty not to delay the matter, and I rather coincide with him. I wish you would see him at once upon this subject. I told him you and I had much correspondence upon the subject of that Salisbury matter. I wish you would explain it all to him. It is important that you should see him and explain all you know about it.

I am, respectfully, &c.,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
*Special Assistant United States Attorney
in the Star-Route Cases, Washington, D. C.*

I went and saw Judge Gresham and had a long talk with him, going over the whole subject, and suggested to him that it was necessary that there should be prepared detailed statements—not only the ordinary formal statements of account which are prepared by the Auditor and sent to the Solicitor of the Treasury (which is a mere balancing of accounts), but very detailed statements on the subject; that there were difficulties arising from the fact that by the subcontract law the Government had recognized the subcontractors' rights, and that money going to the subcontractors, even though, apart from the fraud, they could not have obtained it, yet the subcontractor having no knowledge of the fraud and having done the work, there was a question presented as to whether such money could be recovered; that there were subcontracts on file and off file, and a great deal of detail of that sort that ought to be attended to. Judge Gresham informed me that they were having prepared just such detailed statements as I had spoken of.

Q. Have you seen those yet?—A. After that interview I wrote to Mr.

Brewster on the 24th of July with reference to this matter, again suggesting, as I recollect it, that the cases proceed. I think I have not a copy of that letter here. He replied to me from Long Branch on the 25th of July as follows:

HOWLAND HOTEL,
Long Branch, N. J., July 25, 1883.

DEAR SIR: Your letter of the 24th of July was handed to me to-day. Some month or more ago—perhaps two months—as I have advised you, the Postmaster-General communicated with me upon the subject of the civil suits arising out of the star-route cases. In consequence of that I put you in the direct communication with him, and I conveyed to him copies of all the correspondence between the Department of Justice and yourself as to these cases. You gave me a verbal but brief account of your interview with the Postmaster-General, and I understood you to say that you were to be retained to assist, in some general way, in the prosecution of those civil suits. [The Postmaster-General assumed that I was to be retained. I said that it was not by any means certain that I was; that it rested with Mr. Brewster, but I certainly would not be retained to try the cases.]

I have not the correspondence by me at this place, or probably I would find in some one of your notes written to me at or about that time a statement of the result of your interview with the Postmaster-General, and what you understood your position to be. My recollection now is that you were to have charge of them in some general way, and much to be left to your discretion as to when and where you would appear, your desire being that you would not add expense to the case by going to any remote point if it would be necessary to bring suits other than in Washington or New York, or in some other jurisdiction. Indeed, if I am not much amiss, I now remember that it was your purpose mainly to supervise such suits as might be brought in Washington or in New York so as to avoid expense that would be occasioned by your absence from your business in New York.

Since that time the Postmaster-General has verbally said to me that he was having the papers prepared for the purpose of directing suits to be brought. I believe much labor was necessary to arrange the papers and adjust the accounts, and get things ready for the suits. You know that by statute it lies with the Postmaster-General alone to direct suits or not to direct them. I have no power, except as I am requested by him, to direct action to be taken, or to take action myself. When he reports to me the result of his preparations and requests me to bring certain suits to recover claims, of which I can know nothing unless they were so reported to me, I will then be ready and prepared to communicate with you.

When I first became Attorney-General, and we advised together upon this subject, it was after you conveyed to me the information that Mr. James had deputed you to take charge of these civil cases, and I understood from you that before you intended to act it was your wish that I should know that you so proposed to do, that I should know by what authority you would undertake to act, and that you wished to have my sanction as the head of the Department of Justice to any such suits as you might think it proper to bring under the authority given to you by Mr. James. Then I promptly accepted your proposals and suggestions, and assented to your immediate action if you thought it necessary, under the instructions you had received from the Post-Office Department.

The impression I had soon after that communication made by you, and to which I responded, I believe, in writing, was that it was considered inexpedient to begin those civil suits at that time, because of the urgency of the criminal proceedings; and from time to time since then, in my letters to you, I have adverted to these outstanding cases and reminded you of them, indicating my intentions to speed them whenever the Post-Office Department and yourself were ready to act, and I have been ever since prepared to sanction such suits, and instruct and direct them when they were brought.

The suggestion of your letter of the 24th of July I will remember. I will also send a copy of that letter to the Postmaster-General, and of this also.

Very respectfully yours,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
*Special Assistant United States Attorney
in the star-route cases, New York City.*

Since that time I have written Mr. Brewster two letters on the subject, suggesting proceedings and a mode of procedure. The last plan

that I suggested to him was that he might employ some bright young attorney at a salary, who should have general charge of these suits and at the same time confide the more important matters of the preparation of the pleadings and various things of that character to some counsel whom he should select in Washington or elsewhere, and that in that way the matter might be done without any considerable expense. I learned that the Attorney-General received on the 25th of October the detailed statements to which I have referred.

Q. Were they laid before you?—A. They were not laid before me. The question of what should be done with the civil suits and who should have charge of them was kept in abeyance by Mr. Brewster. He talked at one time of sending them to Mr. Valentine, the district attorney in Philadelphia, who had shown himself very competent in some of these matters, and after a time I thought I saw a way to get jurisdiction of a civil suit against Mr. Dorsey in a forum where I thought there would be no question of fair treatment. I then made personal application to Mr. Brewster, saying that I did not want to be bulging into the cases, but that there was such a condition of things that I wished he would let me have the papers in that case, that I did not care to continue in it, and that all questions of compensation might be left in abeyance for his subsequent consideration. He then did send me statements of all the routes which were embraced in the Dorsey indictment. It turned out, however, that the Postmaster-General had made those statements out in the ordinary skeleton form, referring to the evidence upon the trial as applicable to them. When I came to look at those statements in connection with the subcontract law, I found that that law came in my way. It did not appear how much of the money had been paid to or on the orders of Dorsey himself, and I wrote to Mr. Brewster that fact, and said that I thought it would be necessary to make an examination in Washington on that point. Subsequently I came here and made an examination and got the details.

Q. What did you find?—A. As against Stephen W. Dorsey I found between \$100,000 and \$200,000 that I thought the Government could recover from him. That was between \$100,000 and \$200,000 which had been paid either to him upon these nineteen routes, or upon orders given to him or drafts indorsed by him. That left out the subcontractors. Accompanying those were sent me also the papers against Peck, Miner, Vail, and John W. Dorsey. I wrote to the Attorney-General, saying that Peck was dead, leaving substantially no estate, that John W. Dorsey and Miner were irresponsible, and that it seemed to me not wise to be sending good money after bad by suing irresponsible men; that as to Vail, he was rich and was out in Missouri. I said that I did not suppose the Attorney-General desired to send me the case, if he did to let me know, but that what I was looking after was the case against Stephen W. Dorsey. The arrangement I had made to get jurisdiction of Dorsey was this. It would have been an action *in rem*, and it failed in consequence of the sudden death of a gentleman.

Q. Mr. Bosler?—A. Mr. Bosler. He, as president of the company, had purchased Dorsey's ranch, and under other circumstances had in his possession property of Mr. Dorsey, and when Bosler came to New York I proposed to attach it. But Mr. Bosler suddenly died the very day, I think, he was leaving for New York. Therefore, subsequent to that I wrote to the Attorney-General saying that my efforts to secure this attachment as against Dorsey had failed; that I had retained the papers, because I understood that Dorsey was in Washington, and my

information was that he was likely to come to New York, so that personal service might be had there. However, I learned that he would not come to New York and was going to start for New Mexico early in the following week. My letter was written, I think, on Thursday, and it suggested that in going there he would pass through Ohio, Indiana, and Illinois, in either one of which States Judge Gresham had assured me the Government would have fair treatment, and as either one of those was nearer the place where witnesses would have to be brought from than any place in the East, it seemed to me that the proceedings should be taken to get personal service upon Dorsey there. The Attorney-General wrote me saying that he had received my letter and had referred it to the Postmaster-General, and that is all I know about it.

Q. You have had no further answer?—A. No further answer. I understand, though, that no suit has been commenced. I understand, from something that has been told me since I came here by one of these omniscient press gentlemen, that while the gentleman who was expected to travel with Mr. Dorsey left by the ordinary train, Mr. Dorsey went by a little different and somewhat circuitous route, and this gentleman said he supposed that my plan of securing personal service might have reached Dorsey, and that he tried thus to avoid it by going that way. I have no knowledge, however, on that subject beyond what has been told me.

Q. It has been suggested, Mr. Bliss, that in order to retaliate upon Dorsey for eluding you you have interfered with a suit affecting him in the Territory of New Mexico, and have secured there some action unfavorable to him.—A. Nothing of the kind is true.

Q. You are not acquainted with the proceeding?—A. No, sir. Now that you speak of it, I did see it in the papers that he had got into a row with Bosler's company, but I had nothing to do with it in any way.

Q. State whether these defendants were responsible for the sums that the Government might reasonably claim from them.—A. Except Stephen W. Dorsey, they were not. I suppose him to be so. As to the Salisburys and the Parkers, I understand that they are responsible.

Q. They are still contractors, are they not?—A. I do not know. I understand them to be still responsible. There is a difficulty, however, which was one of the things that was to be avoided by the arbitration. Luke Voorhees, for instance, is the contractor. Now, Voorhees makes a subcontract with O. J. Salisbury, and the increase and everything of that sort which is alleged to be fraudulent is done while Voorhees is the contractor and before there is any subcontract on file. Now, you can trace the money probably to Salisbury, but there comes in the question, which is a matter of evidence very largely, as to whether you can prove the connection between Salisbury and Voorhees. It is the same with Kerns and Griffith and various other cases of that kind. The Salisburys did a great deal of business in that way by putting forward dummies.

Q. Did you see the statement that the Postmaster-General had prepared of the amounts claimed to be due from these star-route contractors?—A. I never have seen it in possession of the Department of Justice. Since you have summoned me here, when I went to the Post-Office Department for the purpose of getting some facts about this Phoenix and Prescott route, the present Second Assistant Postmaster-General showed me a thick paper that had been prepared, but I did not feel that I had any right to go over it, and I did not go over it except as to the Phoenix and Prescott route. Technically, my relations with

the Government had ceased, and as I saw that that was a paper that this committee had called for, and there had been some question as to whether it should be published, I thought I must regard myself as an outsider, and therefore I did not go over it.

Q. You do not know the aggregate amount?—A. I do not; I don't know whether it stated the aggregate; it was quite a thick paper, and I looked over only three or four pages.

Q. So far as you know no civil suits have been brought against any of those contractors?—A. I am very confident no civil suits have been brought. Now, if I may state what I understand to be the facts I will do so. I understand that within a few days the papers in the civil suits have been referred to a gentleman bearing the same name that I do, and yet no earthly relation to me, Mr. William H. Bliss, United States attorney at Saint Louis, who is, by education and experience, I think, as competent a man as can be found in the country to take charge of such cases. He labors, however, under the difficulty of having no knowledge of the interior arrangement of the business of the Post-Office Department, and without considerable special education you cannot appreciate, in my opinion, the force of the cases. If suits are to be brought and prosecuted, Mr. Bliss's experience and the results of his action show that he is as competent a man as can be found anywhere. I understand that he is now in the city engaged in the examination of these cases.

Q. In regard to the employment of detectives, I see in Executive Document No. 40 (matter called for by the Senate), beginning on page 37, a number of accounts of detectives for expenses and services in cases connected with the star-route frauds?—A. Yes, sir.

Q. Who employed these detectives?—A. Well, sir, that was done in this way. We were about to go to trial in the first Dorsey case. As I have already testified, we considered the wisdom of applying to have the jury kept confined during the trial, but we ascertained that Judge Wylie was of the opinion that it could not be done in such a case, and moreover that if it could be done, it was not a wise thing to do. We did not agree with him in relation to that, but it was pretty clear before we got through that in one phase of the case he was right. I think that if the jury had been shut up during that entire summer we certainly would have had a mistrial. Under that condition of things people brought us various stories of this jurymen and that jurymen, that he was doing queer things and meeting with queer people, and in consultation with the other counsel it was decided to recommend that detectives be employed to watch certain jurymen. Of course there were certain jurymen that were of such high standing in the community that we did not think they could be approached. The Attorney-General was communicated with, and he authorized the employment of the detectives, and Mr. Ker sent to Philadelphia for Capt. Lyndon, who was in charge of Pinkerton's service in Philadelphia, and he came here and brought his operatives, and they were employed in that way. I never saw them or had anything to do with them. I think I did once see Lyndon, but that whole business was more in charge of Mr. Ker and Mr. Merrick than of myself.

Q. What were the duties of those detectives?—A. Either of the gentlemen I have named can tell you that better than I can. I can simply state in a general way what we learned which led to their employment. For instance, that a jurymen was in the habit of meeting at a particular place such a man, who was known to be in the employment of the other side, and he was "shadowed." That was the general idea. They were

shadowing the jury, with instructions under no circumstances to ever say a word to any jurymen. They also made reports which I never saw.

Q. Did they continue to be employed during the whole of the first trial?—A. I think not. I think we became satisfied that while we got an enormous amount of suspicious matter it would not lead to anything practical, and therefore I think their employment was stopped before the close of the trial.

Q. Did you examine the reports of those detectives to know what they had been doing?—A. I never saw their reports.

Q. How did you know, then, that they were giving suspicious information?—A. I never saw the reports.

Q. Who approved the reports?—A. It is possible that my name appears upon some of them, though I think the bulk of them were approved, not by me, but by Mr. Ker and Mr. Merrick. I think so, but I cannot say so with any certainty. This statement (in Ex. Doc. 40) does not show. Here is one that I approved. That reminds me. In New York I sent for the Pinkerton people there, and made an arrangement with them by which their charge should be \$2 a day, which was less than they charged to ordinary private parties. I communicated that fact to the Attorney-General, and it was approved. The amount that they were to be paid per diem was arranged in that way beforehand.

Q. You say that the information that these detectives obtained was not furnished to the counsel in the case?—A. Oh, yes, sir; it was furnished to Mr. Merrick and Mr. Ker; but in the Dorsey case we put 3,600 exhibits, and all of those involved an infinitude of detail, and all of that was in my charge, and so were the witnesses, and I had as much as I could do, or as any man would want to do, and for that reason this other business was thrown onto these other gentlemen.

Q. Then you never received any reports from the detectives?—A. I never received any from them. I saw at Mr. Merrick's office certain reports, and I may have fingered over one, and it is possible that some particular one may have been taken up and my attention called to it or to some passage in it.

Q. Was your attention called to that passage which contains a charge for "expense with Mahone and two Congressmen seeking information, 45 cts."?—A. (Laughter.) No, sir; I think my attention was not called to any of those items of expense.

Q. From the accounts the principal occupation of these detectives seems to have been to take drinks and ride on the street cars?—A. Well, that was for the benefit of two influential classes in the Washington community.

Q. I did not know whether the detectives were useful in the trial or not.—A. If you ask my opinion about that, my opinion always was that that business did not pay expenses. I thought it was a wise thing to undertake it, but as it turned out it did not pay expenses, and therefore we did not repeat the experiment on the second trial. I think it was abandoned even on the first trial before we got through with the trial. I feel quite certain that if the detectives were not all discharged the number employed was very much reduced.

Q. Among your personal expense accounts I see that your bills were generally for board at the Arlington; is that the place where you usually stopped?—A. Yes, sir. I see there is some criticism by Mr. Cook as to certain items in my expense accounts. I paid \$10 a day for the simple reason, as I have told the committee, that it was neces-

sary for me to spend my entire evenings and very far into the night in seeing witnesses, and therefore it was absolutely necessary that I should have a room in which to do it.

Q. Did you stay at the Arlington all the time?—A. No, sir. Last winter I made an arrangement and took rooms at the Arlington, undertaking to pay a certain sum per day; I have forgotten just what it was. Subsequent to that Mr. Secretary Folger was desirous of keeping house, but his family were not here, and Mr. Sperry, his private secretary, took a house. I lived with him, and the Secretary of the Treasury lived with him, and I paid my share of the expenses, stipulating—that is, not stipulating but arranging—that the amount presented for expenses charged to the Government should be less than the amount which would have been paid under the arrangement I had made at the Arlington and had subsequently broken up. That arrangement continued, but I never got those expenses, or at least I got but a small portion of them, because about that time the Comptroller changed his ruling as to expenses. I did, I think, get expenses for a month or so.

Q. You paid those expenses, then, to Mr. Sperry?—A. Yes, sir; to Mr. Sperry.

Q. How much did you pay Mr. Sperry for your expenses?—A. I can't tell you. There are some vouchers on file which will show.

Q. I find in Ex. Doc. No. 40, page 87, two bills of Mr. Sperry, one dated February 1, 1883, for board from January 1, \$183.36, and the other for the month of February, \$164.73; do you remember those?—A. Those I paid.

Q. You say that about that time the Comptroller reversed his ruling in relation to expenses, and you were not allowed anything for expenses?—A. Yes, sir; I think those expenses have never been paid; yes, I guess they have been paid, but after that I was not paid for expenses.

Q. All the rest of the time you were at the Arlington?—A. Yes, sir.

Q. Did you pay their usual prices?—A. I usually made a bargain, and did not pay more, but usually less. I know, for instance, that the rooms I paid \$10 a day for had been rented to my predecessor at \$20 a day.

Q. They were accessible rooms?—A. Yes, sir; quite accessible. Now that you have got on to those accounts, let me say that somebody has made some criticism upon an item there. Mr. Cook's virtuous soul, I believe, was shocked at the item of washing which he found in one of those bills. I suppose he confounded it with the washing of dirty linen in public that he was then engaged in. The fact is that that item of washing should not have been there. If you will go to my original vouchers, you will find a number of things in the hotel bill that I struck my pen through, and although this item would be within my strictest legal rights, as I was to have my expenses paid while I was away from home, I intended to strike it out, and I did strike out everything else of that kind, so far as I know.

Q. Were any of your expense accounts disallowed at the Department?—A. Oh, I think there were some little items disallowed, a few dollars at a time. Now, as to these items, when you talk about expenses, let me call your attention to Mr. Cook's own bill, which I find in this same executive document, as he has gone into a criticism of mine. It appears here that Mr. Cook presents a bill: Expenses, two trips to New York, \$30; hotel expenses, New York, \$60; incidental expenses, New York, \$30; expenses, trip to Philadelphia, \$25; clerical services, pro-

curement of papers, and other incidental expenses in preparation of cases, \$300; hack hire, New York and Washington, &c., \$50. Everything, you see, is in round numbers, with no pretense of giving items or details, or anything of that kind. I merely suggest that there is a maxim about people who live in glass houses.

Q. As to these detectives, I understand you to say that they were not used during the second trial?—A. The detectives were not used during the second trial. There may have been a detective or two employed for some special thing, but they were not employed generally.

Q. Was there a detective by the name of Moore employed?—A. No, sir; not that I know of. Let me tell you about him. Mr. Moore is a clerk in the office of the Solicitor of the Treasury. Before going there he had been a clerk of the court in Philadelphia, and had been particularly in charge of all matters connected with witnesses, and at my request he was detailed to take charge of the accounts of the witnesses and various things of that sort, and he drew his pay as a clerk of the Solicitor of the Treasury. The Solicitor is of course a subordinate of the Department of Justice.

Q. Was Moore of any service to you in the business?—A. Oh, of a great deal of service.

Q. What was the nature of his duties?—A. Well, he took charge of of all the witnesses' accounts. We had the witnesses here—forty or fifty of them—hanging about for several weeks. There was a good deal of trouble in keeping them here and having them on hand when we wanted them. They would go off. Then, too, we had to go into a regular system of becoming guarantors for their board bills, and arranging all that. There was a great deal of that sort of business. With reference to my own compensation, I desire to say, further, that I can put my finger upon business which I actually had, and which I gave up in consequence of being in these cases, out of which there would have come to me at least half as much as I have received from the Government. There was one single case which I was in, and which involved \$3,000,000, which I had to go out of, after being in it, prior to the argument in the final court where we succeeded, and by not being in the case at that time I lost a fee of thousands of dollars which had been arranged for.

Q. What was the case?—A. It was the case of the New England Iron Company against the Metropolitan Elevated Railway Company. I desire before leaving the star-route cases to say one or two things additional. Mr. Spencer claims in his evidence that what he told was confidential and that we had no right to use it. About that I want to say that there was nothing in the matters that I found among the papers indicating that there was to be anything confidential about it, and, moreover, as I got knowledge that he had told the same things to various people outside, I should have considered myself entirely relieved from any such obligation. But I never heard any suggestion that the matter was confidential until the time when Mr. Spencer sent Mr. Chandler to me, and Mr. Chandler said that Spencer seemed to have a kind of indefinite idea that he was a sort of counsel in the cases, and, therefore, ought not to be obliged to testify.

Q. In what respect could Mr. Spencer be regarded as counsel?—A. He could not be counsel. He is not a lawyer. He was not in any such relation. There was no pretense that he was in any such absolute relation, but only that he had some sort of vague idea that in some sense he was of counsel in the matter.

Q. Was not this Mr. Spencer's idea: that he had an agreement with

the President or with Postmaster-General James that he was not to be used as a witness, and that, therefore, he ought not to be required to testify?—A. It was never so stated to me at any time, and I understand that Mr. James does not agree that that was the view.

Q. There was no pledge given to Mr. Spencer, so far as you know?—

A. No, sir. In fact, after the question was raised, I was told that Mr. Spencer said that he could testify to certain things, but that he did not want to testify; but if we could not prove the matters in any other way he would testify. At all events it would have presented to me a very serious question whether, if I knew of a witness who had information which he chose to regard as confidential, it would not be my duty to call him and examine him.

Q. What was said at that interview at the Arlington between Mr. Chandler and you when Mr. Spencer was with Mr. Chandler?—A. Well, Mr. Chandler said, "Spencer seems to have a sort of idea that he is a counsel in some sense, and that he ought not to be required to testify."

Q. Did Mr. Chandler request you to let up on Mr. Spencer?—A. No, sir. When I stated my position to Mr. Chandler, and that I could not help putting Mr. Spencer on the stand and examining him, Mr. Chandler agreed with me entirely and said that I was right; but of course he was obliging Mr. Spencer as far as he could.

Q. That would seem from Mr. Spencer's statement to have been a very long interview between you and Mr. Chandler?—A. It was not. I think Mr. Spencer is mistaken about that. The fact is we were all sitting in the bar-room of the Arlington Hotel, six or eight people, when Mr. Chandler and Mr. Spencer came in, and I think that they both sat down and both took some Apolinaris water (or something else), and then Mr. Chandler said to me that he would like to talk with me a little, and we went aside I think into a public room, and I should say that we did not even sit down. I should say that my conversation with Mr. Chandler that time didn't last over 15 minutes.

Q. Mr. Spencer stated that it began at 11 and concluded about 1 o'clock in the morning?—A. That was not so. And let me say that I have taken occasion to see one or two people who were present at the time, and asked them if it occupied any such length of time, and they said not at all, so that Mr. Spencer is mistaken about that. We did not talk enough to occupy any such length of time.

Q. He was waiting and he might have thought it a long time?—A. Yes, sir.

Q. Perhaps he thought there was too "long a time between drinks" [Laughter]?—A. Well, we were the only people that could have suffered in that way. The others were free to drink as often as they pleased.

Q. Did Mr. Chandler seem desirous of having Mr. Spencer testify, or desirous of having him excused?—A. Mr. Chandler seemed desirous of obliging Mr. Spencer, but he did not fully understand the position when he came to me. He supposed that Mr. Spencer could not be of any benefit as a witness, and did not see why I should not let him go; but when I explained the situation to him he recognized the fact that I must go ahead and make Spencer testify, and I understood from Mr. Chandler that he expected he would testify.

Q. Did Mr. Chandler ever express any desire or wish in reference to the prosecution of any of the star-route contractors or persons interested in the business?—A. No, sir. That reminds me—I see that somebody somewhere has testified—your correspondent Mr. Walsh has testified, to some meeting with Kellogg and Chandler at Mr. Chandler's house.

I never had any meeting at Mr. Chandler's house nor anywhere else at which I ever met Kellogg when Chandler was present or through any instigation of Chandler, or through any communication with him in any way whatever.

Q. Did Chandler ever in any way express a desire to you that you should suspend the effort to procure an indictment against Kellogg?—A. No, sir.

Q. He did not?—A. No, sir. The most that Mr. Chandler ever did was that on one occasion he said: "Kellogg is in a terrible state of mind. He wants that I should talk to you. I can't talk to you—in the position that I am in I can't talk to you. All I want to say to you is that I am confident you will see that he is fairly treated. If he has done anything wrong let him suffer for it."

Q. Did he in any way show any concern in regard to the Kellogg matter or any desire to have you let up on him or deal gently with him?—A. No, sir. I think that Mr. Chandler did not believe Walsh, and therefore thought that the case against Mr. Kellogg was not very good.

Q. Did he ever suggest to you the fact about which Mr. MacVeagh testified, that Kellogg's indictment would interfere with the Republican majority in the Senate?—A. No, sir; no human being ever suggested that to me except William A. Cook.

Q. What was Mr. Cook's suggestion in that regard?—A. Very early, prior to December, 1881, when I met Mr. Kellogg in Mr. Cook's office, Mr. Cook told me that Kellogg was a client of his, and that there had been some mention of his name in connection with the case, but that we must not hurt him, because it would endanger the Republican majority in the Senate.

Q. Was Mr. Cook then counsel for the Government in the star-route cases?—A. Yes, sir.

Q. Did he say that Kellogg was then his client?—A. He did, sir.

Q. Where was that?—A. In Mr. Cook's own office.

Q. About what time?—A. I know it was prior to the 1st of January. I should think it was as early as October or November. That was one of the things that first raised a doubt in my mind about Mr. Cook.

Q. That was pending the time when efforts were being made to secure the indictment of Kellogg?—A. No, sir; not at that time. There were no efforts being made at that time, and I don't think that at that time I even knew of any route with which he was supposed to be connected, or anything upon which any prosecution could be based. In fact, I was so green in the case that my first knowledge that Mr. Kellogg was said to be connected with the matter came from Mr. Cook through the suggestion then made.

Q. And Mr. Cook, you say, expressed a desire that nothing should be done against Kellogg because of the danger to the Republican majority in the Senate?—A. Yes, sir; something like that.

Q. What did you say?—A. I don't know that I said anything. I didn't know that there was any case against him. I know the remark set me thinking.

Q. Did you indicate any disposition to Mr. Cook at that time to suspend or cease any efforts that might have been made, or making, to secure the indictment of Kellogg?—A. No, sir. There was not any such suggestion at that time. I did not know Mr. Kellogg by sight.

Q. You knew who he was?—A. No; I did not until Mr. Cook told me that that gentleman who was just going out was Senator Kellogg,

and he then said something in a mysterious way about his name having been mentioned in this case, and added, "but he is a client of mine and we must not hurt him. It will affect the majority in the Senate." That is what he said, or something of that kind.

Q. Mr. Chandler never had any conversation of that sort with you?—

A. Mr. Chandler had that conversation of which I have already told you, in which he said, "Poor Kellogg is in a terrible state of mind. He wants to me speak to you. Now you know I cannot. All I can say is treat him fairly." And I think Mr. Chandler did say that he did not believe that John Walsh was to be relied upon.

Q. Did he say that he had received any letter on the subject from any member of the Cabinet?—A. I do not remember anything of that sort, sir.

Q. Have you heard whether he did receive a letter?—A. I have heard that there was some correspondence between Mr. Brewster and Mr. Chandler, but my recollection about it is that Mr. Walsh made a public statement that there had been something of that kind, and that that led to some correspondence. I don't know anything about it, however.

Q. Mr. Chandler did not call your attention to it and show you any letter that he had received?—A. I don't remember having seen anything of the kind, and I do not think it is possible that I could have seen anything of that kind and not remember it. But I have on my mind an impression that I learned in some way that there was some correspondence on the subject between Mr. Chandler and Mr. Brewster. It must have been pleasant correspondence.

Q. You never saw it?—A. I am very confident I never saw it. I have no recollection of it at all.

Now, with regard to the witness Walsh, inasmuch as he is in communication with the committee, and the committee will perhaps be successful in finding him, I suppose that I may be permitted to say that he was always a pet of Mr. Gibson. I have already narrated the interview with Walsh when I read over to him Gibson's statement as to what Walsh would testify to, and I have mentioned that Walsh made corrections and changes in it. After that Mr. Walsh was put before the grand jury (I do not remember the time exactly), and gave evidence and produced certain papers. As the result of that at that time before that grand jury, as I recollect it, the only mention of Mr. Kellogg's name that was made was in connection with the production of these papers. We were going for Brady and Price. Certainly when I went into the grand-jury room I had no idea that there was any question about Mr. Kellogg in the case. In the course of that meeting some of the jurors asked Walsh about certain papers, and as to where he had got them—the Price drafts, I think—and he said that Mr. Kellogg had brought them to him. I confess that the mention of Mr. Kellogg's name at that time did not convey to my mind the idea of Senator Kellogg. I did not remember anything about him in connection with the matter. The grand jury then adjourned. Mr. Walsh told me that he had not told that grand jury everything about the case. I asked him why he had not. He said he was not going to tell them, that there were some of Brady's men on the jury, and that he was not going to tell anything more than was necessary. I see that in an interview with him that has been published in the papers, he takes substantially the same ground—an interview published in the Herald on the 25th of November, 1882.

Q. To whom did he refer there?—A. I do not recall who it was, but

he pointed out several people; he pointed out a colored man on the jury that he said was in the interest of the defense, and he said he was not going to throw himself open to them. That was a peculiarity of Walsh's that we had to deal with at various times. We found when he went into court on the Dorsey trial and undertook to testify as to his money dealings with Brady that he had sued Brady, and had made claims very different from those which he testified to upon that trial as existing, different in respect to dates and in other respects. He was pressed a good deal by the defense in that case, they claiming that his whole evidence was untrue. He said that this difference of dates arose from a mistake of his lawyers. Then he had commenced attachment proceedings in New York, and the same error was found there; and finally he said that he did not tell his lawyer any more than he thought it was necessary to tell him; that that was not his way. He made this statement as to the grand jury. I heard nothing more about it at that time; but one morning I went to New York, and when I came back here and got to the court-house, Mr. Merrick said to me, "Look here, I want to see you"; and then he told me that Walsh was telling all around that I had endeavored to protect Senator Kellogg. I said to Mr. Merrick, "You know better than that. There is nothing in that"; and he replied, "That is so. But," said he, "Walsh says that he has got all this evidence, and that you did not draw it out." I said, "I never saw the evidence." "You never saw the evidence?" said Mr. Merrick. "No, I never saw it," I answered. "I hear of it for the first time." Mr. Merrick, I see, thinks that he made the suggestion that the grand jury should be reconvened. My recollection is that I made it. However that was, I said that the grand jury must be reconvened, and we went right into court, and Mr. Merrick took the ordinary counsel seat, and I went to Judge Wylie on the bench and told him that I wanted that grand jury reconvened. I think it was in summer, and the judge was unwilling to bring them together again; but I finally told him why I wanted them reconvened, that the statement was made that I had suppressed evidence; and thereupon he reconvened the grand jury. Walsh came and was put before the grand jury. He produced more papers than he had before, and he testified in a way, as I have already stated, that if I had been on that grand jury I should have found an indictment against Kellogg. The grand jury were obviously anxious to dispose of the case that day. They knew they were there only for that case, and they wanted to get rid of it. I asked Walsh on the first day, "Have you produced all the papers you have got?" He said he had. I asked him, "Do you remember anything more that affects Senator Kellogg?" He said "No," that he did not. He was asked by somebody if he had kept any books. He said he had kept books, and that when he broke up here they were carried to Welker's. I fastened upon that as an excuse for getting an adjournment of the grand jury to see if anything could be found. We got the adjournment. In the mean time I had some little talk with Walsh. The next morning I went in and endeavored to probe him as thoroughly as I could to ascertain whether he knew of any papers, or of anything, that would give us any additional evidence of any kind. He said distinctly that he did not, that he could not give any additional evidence. The grand jury did not indict. His evidence before the grand jury was given in an offensive way—in a way not likely to win consideration for it—and the jury did not indict. Subsequently there was a third grand jury, and although before this previous grand jury Walsh has assured me that he had no other papers of

any kind, if I am correctly informed, he produced a lot more of papers which had never been seen before, which were undoubtedly Kellogg papers, and undoubtedly pertinent papers, and an indictment was obtained. All that I have to say about it is that I did my best to get an indictment against Mr. Kellogg, and used all the evidence that was within my control or reach and all the power I could command to press the case against him.

Q. There was no delay in that case, so far as you were concerned in prosecuting it, on account of the position of Mr. Kellogg as a United States Senator?—A. No, sir.

Q. Or for any other reason?—A. No, sir. As I have already told you, before Kellogg was indicted by the third grand jury the indications were that Price would be an available witness to be used in some way. That, of course, involved the giving up of Price, if we used him as a witness, for the purpose of taking Kellogg, and I differed with the other gentlemen as to the wisdom of doing that. I assumed that we would get an indictment against Kellogg, but it did not seem to me that we would get enough evidence to convict. There was the troublesome question that I have referred to already about the statute of limitations, and on the papers and evidence we then had I thought the statute was a conclusive bar, so far as regarded anything that we had knowledge of. After Price was indicted I said that we had better hold on to him; that there was reason to believe Price was concerned in a good many other schemes, and that we had better not let go of one man until we got a firm hold on the other. Mr. Merrick and Mr. Ker differed with me about that. We had a meeting at the Attorney-General's house, and we set forth our respective views about this matter. That is the only case in which there has been any difference of view between counsel. The decision was left to the Attorney-General, and I learned subsequently that he had decided to use Price and to proceed against Mr. Kellogg.

Q. Were you in any way dissatisfied with that determination?—A. Immediately upon learning it I wrote the Attorney-General a short letter, stating that I had received his decision; that, of course, he had a right to make the decision, and I was bound by it, and should act under it in good faith, but I respectfully asked leave to place on record my opinion that it was not a wise decision. Then came the proceeding before the grand jury, and the production of the additional papers by Walsh. The moment I learned of the production of those papers, and what was in them, I stated to the Attorney-General that in my opinion that changed the position of the case entirely, and that it was a proper one to be proceeded with, and that it was proper to let go of Price and proceed against Kellogg, and I have not changed my mind or view upon that subject.

Q. You are still of the opinion that the Government has a good case against Mr. Kellogg?—A. Now, have I a right to give my view here upon a case which is liable to come up for trial? I am willing to do it if the committee desire.

Q. Use your own discretion about that.—A. Then, without going into details, I will say, in general terms, that as the case stood after Mr. Kellogg had been indicted upon the information which Walsh gave, and upon the papers which he produced—as the case then stood, with Price available as a witness, and with Walsh available as a witness, and not so badly injured as I think he has injured himself since, I did consider that it was a case in which the Government might have a very fair reason to expect to succeed, and a case that the Government ought to pro-

ceed with the trial of. Mr. Walsh has since so conducted himself that Judge Wylie did not hesitate in court last fall to express the opinion that he did not suppose the Government cared anything for the testimony of such a witness, and that all they could want from him was his papers. In a hearing the other day in court that was reiterated substantially by Judge Wylie, and Mr. Merrick, representing the Government, took substantially the same view, saying that he wanted Walsh, not for his testimony, but for the papers, and he referred to Walsh as possibly writing from a lunatic asylum, or something of that sort. Now as to these papers, if they do not turn out to be dependent upon Walsh's testimony to furnish connecting links to supply dates, or anything of that kind, if Walsh were here to produce them, I should still think it would be a fair case, although it is a case that has been weakened a good deal by Walsh's course. Those papers I have never seen. I think there was an error committed in the case, and I do not think I should have committed it. When Walsh produced those papers before the grand jury I should have impounded them. My theory is that all papers produced before the grand jury pass into the control of the Government, and, as a prosecuting officer, I should always hold them until the case is over, and then return them. In that case Walsh produced the papers before the grand jury, but afterwards took them away.

Q. Did you see the papers that he produced?—A. No, sir; I saw the papers that he produced before one grand jury—the one that refused to indict—and kept a portion of them in my hands.

Q. Please look at the list of papers I now hand you, and state whether you have ever seen those papers.—A. (After inspecting the list.) Now, as to these papers, here is a subpoena prepared by Mr. Ker; some of these papers I undoubtedly saw before the first grand jury; I recognize certain papers in which Mr. Buell's name appears; I saw one or two letters from Walsh beginning "My Dear Walsh"; I did not see as many as there are here; I think that possibly I saw the letter signed "J. B. Price"; I have an impression that I saw that; copies of some of these papers were subsequently published in the Herald, I think, and I may have seen them there; but I do recognize some things that are here.

Q. That is a copy of the subpoena *duces tecum* that was issued?—A. Yes.

The subpoena is as follows:

In the supreme court of the District of Columbia, holding a criminal court for said District, the eleventh day of December, 1883.

UNITED STATES	}
vs.	
WILLIAM PITT KELLOGG.	

The President of the United States to John A. Walsh:

You are hereby commanded to attend the said court immediately, to testify on behalf of the United States, and not depart the court without leave of the court or district attorney, and bring with you the drafts or checks, and letters or copies of letters, and memorandums or accounts of the payment of money, as follows:

The drafts or checks, and letters or copies of letters and memorandums or accounts of the payment of money or drafts or checks signed by you, or endorsed by you, during the years 1880 and 1881, for the payment by you, either directly or indirectly, of money to William Pitt Kellogg; and the letter or letters written and sent or handed by the said William Pitt Kellogg to you during the years 1879, 1880, 1881, and 1882; and the copies of letters or copies of the letters written by you and sent or handed to the said William Pitt Kellogg during the said years 1879, 1880, 1881, and 1882; and the memorandums or accounts of the payment of money or memo-

randums, accounts, or statements made by you of moneys paid, sent, transmitted, or handed by you, during the years 1880 and 1881, to the said William Pitt Kellogg, the said drafts or checks, and letters or copies of letters, and memorandums or accounts of the payment of money or relating to and concerning certain sums of money collected or to be collected by you from the Post-Office Department, and the Treasury of the United States under and by virtue and authority of certain drafts or orders for the payment of money commonly called "post-office drafts," and "contractors' drafts," two of which were dated July 13, 1879, each signed J. B. Price, contractor, each for payment by the Auditor of the Treasury for the Post-Office Department to the order of the said J. B. Price, the sum of twelve hundred and fifty dollars out of any money due him, the said J. B. Price, on route No. 31120, Indianola to Corpus Christi, in the State of Texas, one for the quarter ending September 30, 1880, and the other for the quarter ending Dec. 31, 1880, and each endorsed on the back thereof, J. B. Price; and the five others of which are dated July 16, 1879, each signed J. B. Price, contractor, each for payment by the Auditor of the Treasury of the Post-Office Department to the order of the said J. B. Price, the sum of three thousand dollars out of any moneys due him, the said J. B. Price, on route No. 31148, San Antonio to Corpus Christi in the State of Texas, one for the quarter ending March 31, 1880; another for the quarter ending June 30, 1880; another for the quarter ending September 30, 1880; another for the quarter ending Dec. 31, 1880; and another for the quarter ending March 31, 1881, and each endorsed on the back thereof J. B. Price; which said two post-office drafts for the payment of moneys due on route No. 31120, Indianola to Corpus Christi, were received by you for the collection by you of the moneys mentioned in each of said drafts; and which said five post-office drafts for the payment of moneys due on route No. 31148, San Antonio to Corpus Christi, were received by you from the said William Pitt Kellogg for the collection by you of the several amounts of money mentioned in each of the said drafts, and for the payment by you to the said William Pitt Kellogg, from time to time, of one-half of the amount of money mentioned in each of the said drafts as often as the several amounts should be by you collected, and which said several amounts of money were by you from time to time collected, and one-half thereof paid by you to the said William Pitt Kellogg.

The aforesaid drafts or checks, and letters or copies of letters, and memorandums or accounts of the payment of money which you are required to bring with you, are: Drafts or checks signed by you, or endorsed by you, or signed and endorsed by you.

Draft or check No. 151, dated Washington, D. C., July 23, 1879, John A. Walsh, banker, pay to the order of Shellabarger and Wilson four hundred and ninety-one dollars and seven cents, endorsed Shellabarger and Wilson.

Also, draft or check No. 187, dated Washington, D. C., Oct. 28, 1879, John A. Walsh, pay to the order of Wm. P. Kellogg, five hundred dollars, endorsed W. P. Kellogg.

Also, draft or check No. 205, dated Washington, D. C., Dec. 23, 1879, John A. Walsh, banker, pay to the order of W. Pitt Kellogg two thousand dollars, endorsed W. P. Kellogg.

Also, draft or check No. 251, dated Washington, D. C., May 4, 1880, John A. Walsh, banker, pay to the order of W. P. Kellogg six hundred and twenty-five dollars, endorsed William P. Kellogg.

Also, draft or check No. 268, dated Washington, D. C., June 28, 1880, John A. Walsh, banker, pay to the order of W. P. Kellogg six hundred dollars, endorsed W. P. Kellogg.

Also, draft or check No. 211, dated Washington, D. C., Jan. 5, 1880, John A. Walsh, banker, pay to the order of A. C. Buell seventy-five dollars, endorsed A. C. Buell.

Also, draft or check No. 214, dated Washington, D. C., Jan. 7, 1880, John A. Walsh, banker, pay to the order of A. C. Buell one hundred and twenty-five dollars, endorsed A. C. Buell.

Also, all other drafts and checks signed by you, or endorsed by you, or signed and endorsed by you, for the payment by you or through you, either directly or indirectly, of any money during the said years 1880, 1881, to the said William Pitt Kellogg on account or by reason of the money collected by you under and by virtue authority of the above-described post-office drafts, or either of them, or in any way relating thereto.

And also letters written, sent, or handed by the said William Pitt Kellogg to you.

Letter headed United States Senate Chamber, Washington, Feb. 8, 1881, addressed My dear Walsh, and signed W. P. Kellogg.

Also, letter headed United States Senate Chamber, Washington, Feb. 10, 1881, addressed My dear Walsh, and signed W. P. Kellogg.

Also, letter headed Astor House, New York, May 18, 1881, addressed Mr. John Walsh, and signed J. B. Price.

Also, telegram, Washington, Jan. 18, John Walsh, New York; Yes; I think so; W. says come. K.

Also, telegram headed Washington, D. C., Feb. 2, 1881, addressed John A. Walsh, East Twenty-seventh, New York, and signed W. P. Kellogg.

Also, letter or telegram headed Neenah, Wis., August 5, addressed John A. Walsh, 3 East Twenty-seventh street; without any signature.

Also, letter, John, I leave for West to-night. See P. at once, and give him that statement. Also relieve his mind regarding any suit against Brown and others.—Cato.

Also, all other letters written, sent, or handed by the said William Pitt Kellogg to you, during the said years 1879, 1880, 1881, and 1882, in any way relating or pertaining to or concerning the said money collected or to be collected by you, under and by virtue and authority of the above-described post-office drafts, or either of them.

And also, all copies of the letters written by you and sent or handed to the said William Pitt Kellogg during the said years 1879, 1880, 1881, and 1882, in any way relating or pertaining to or concerning the said money collected or to be collected by you under and by virtue and authority of the above-described post-office drafts or either of them.

And also, all memorandums, accounts, or statements kept or made by you of moneys paid, sent, transmitted, or handed by you during the years 1880 and 1881 to the said William P. Kellogg, in any way relating or pertaining to or concerning the said money collected by you under and by virtue and authority of the above-described post-office drafts or either of them.

And also, all letters, telegrams, drafts, or checks, receipts and papers produced and exhibited by you before the grand jury in the District of Columbia at the time of their finding the bill of indictment in above case.

Witness D. K. Cartter, chief justice of said court.

[SEAL.]

R. J. MEIGS, *Clerk.*

The WITNESS. We wanted Walsh as a witness. Mr. Merrick came over to New York for the purpose of getting into communication with Walsh. Walsh had always spoken kindly and rather enthusiastically of Mr. Merrick, and Mr. Merrick had always been able to get along with him. Walsh had tabooed me a good deal earlier. As I have said, Mr. Merrick came over to New York last fall and tried to get in communication with Walsh. Walsh never has had any known address in New York. He has always directed his letters to be addressed in care of E. H. Grandin, a lawyer. When we wanted him before for the second Dorsey trial we could not get him. We spent several hundred dollars in detective work without finding Walsh, and finally only discovered where he was through a lady with whom he was very intimate. She was taken out sleigh-riding by somebody or other, and in some way they got from her information as to where Walsh was, and we went and got service of a subpoena upon him. He has always been very troublesome to find. Mr. Merrick went to see Mr. Grandin, and finally told him that he wanted to see Walsh, and Grandin said he would try to arrange an interview. Mr. Merrick then came to my office, and we talked over the whole business of Walsh. I said, "Look here, Walsh's trouble is me; now let me stand aside; I will go out of the case in any form you wish; you may give him any assurance you desire that I am entirely out of the case. I will submit to anything, except public degradation in connection with the matter." Mr. Merrick said that that was very handsome of me, and he would tell Walsh. The next day he came to my office with a letter from Grandin, in which Grandin said that he had caught Walsh eating a good dinner somewhere the day before, though he took care not to say where, and that Walsh replied without hesitation that he would not see Mr. Merrick, or anybody else connected with the Government; that he had addressed a letter to the President on the subject, and that when his demands in that letter were complied with, he would be glad to see Mr. Merrick. Mr. Merrick remarked, "Mr. Walsh is making some demands there, and you must not go out of the case until we see what they are." Mr. Merrick came on to Washington and saw the letter to the President. I came here a day

or two afterwards, and the first thing that Mr. Merrick said to me was that he insisted upon it that under the circumstances I should not go out of the case; that it was due to the dignity of the Government that a counsel should not be driven out of the case by a witness in that way, and that I must remain in. So in a quasi manner I did remain in. We set to work to find Walsh. We shadowed Grandin's office, but it is in a building with three or four entrances, and therefore rather difficult to watch. We watched Walsh's letters in the post-office. I got authority from the Attorney-General to employ some detectives, and I did employ them, and we followed Walsh very carefully. We tracked a letter in Walsh's handwriting, postmarked at St. Catherines, Canada, just about the day the Kellogg case was to come up. While I believed it to be a "stall," I thought it was only proper to send somebody to St. Catherines to see whether Walsh was there, or had been there, and I did so, but could not find evidence that he had been there. I have no doubt at all that he has been at all times in New York, or nearer to New York than that. I have tried earnestly to find him. I am told that at some particular time he rode up town in a car on the elevated road in which I was. All I can say is that I did not see him. And the reason why I can say that is that at one time I had a consultation with Mr. Merrick, in which I suggested to him that there was a provision of the Revised Statutes under which Walsh could be arrested (I think it is section 827). Mr. Merrick was not familiar with the provision. When I came over here the following week, we consulted with the Attorney-General, and determined to apply for process for the arrest of Walsh. I made the affidavit, and went before Judge Wylie and got a warrant for the arrest. We kept it so secret that we did not even let the clerk's office know anything about it. We had to go there to get the seal attached, but the paper was turned down so that they could not know what it was. The papers were deposited with the marshal to be kept as Judge Wylie's personal property, and that warrant was taken to New York. Upon that, I procured a warrant to be issued; that is, I procured it, as the saying is, to be "backed," and a commissioner's warrant to be issued for the arrest of Walsh, and I got duplicates of them and had them in the hands of two or three people, to be served upon Mr. Walsh, if he could be found; but all my efforts to get them served were vain. Now, if I had ever seen him in the car, I think that, knowing of the existence of the process for his arrest, I should have had very little hesitation in having him arrested, and my relations to the New York police are such (though that statement may be regarded as somewhat ambiguous) that I think I could have got a policeman to act in the case without having the warrant in his possession, upon my assurance that it had been issued. The fact is we made an earnest and strenuous effort to find Walsh, and have continued to make such efforts, but have been unable to find him. We found Mr. Gibson in communication with him, and in possession of his letters, and also Mr. Charles F. MacLean. Finally I wrote to the Attorney-General that in my opinion, as we had no clew in New York, the way was to begin from here, and to look out for Gibson; and after that time whatever was done with reference to searching for Walsh was done from here. I am told (I do not know whether it is true) that the committee, or some committee of the House, were very well satisfied that they could find him, and took a little hand at the business, but did not succeed. I employed Pinkerton's men in New York, and I also employed a private detective, whom I had personally employed previously in other matters, who was very

devoted to me, and in whom I had great confidence. That is all I can say about that. Mr. Walsh addressed various communications to the President and to other people, pitching into everybody and everything. Those communications have led to various answers of mine. I have got them here, but I do not suppose the committee cares to encumber the record with them.

Q. I believe you have stated that, so far as you know, there was never any condition proposed or implied in reference to the payment of that claim of Walsh's provided he would appear as a witness for the Government?—A. No, sir; on the contrary, very decidedly not. The officers of the Post-Office Department were of opinion that Mr. Walsh in the first place had no claim, and in the second place that if he had a claim had released it when he got the other settlement. However, the paper that was taken from him as a release did not clearly cover it. Walsh went into the Court of Claims, and he had this plausible ground there, that the fines in his case having been remitted on the ground that his becoming a failing contractor was caused by the fault of the Government officers, therefore he was not a failing contractor by any act of his own, and was consequently entitled to this pay. He said in substance, "My contract was not taken away through any fault of mine; it was taken away because of the wrongful action of the officers of the Government, and therefore I am entitled to this month's extra pay." That was the plausible way in which the claim was put in the Court of Claims. All that was ever said to me on that subject—I will not say that it was said to him, but I have understood it was said—was that the Government would facilitate getting a decision on the subject. Mr. Walsh made various claims, and demanded various payments. For instance I have got here a letter of his dated New York, October 26, 1882, in which he says:

G. BLISS, Esq.,
Special Counsel Star-Route Cases, New York:

MY DEAR SIR: You will oblige me by directing payment to me of the \$350 for which I submitted to you a voucher in Washington.

This is what he calls the voucher:

United States, to John H. Walsh, Dr.

To services rendered in star-route cases \$350

Q. Did you pay that?—A. No, sir.

Q. What is the service for which that bill is made?—A. I have not the remotest idea. I think the claim was for being in Washington here.

Q. It is not paid yet?—A. No, sir.

Q. Has that claim been filed in the Department of Justice?—A. No, sir. This is simply a letter that Walsh wrote me.

Q. Is the bill made against the Government or against you individually?—A. It is made out to the United States.

Q. Did he expect you to pay it?—A. I do not know what he expected me to do about it.

Q. You are not paying bills of the United States?—A. No, sir; only the witnesses'.

You asked me if I put the papers in the Vinita and Las Vegas route before the grand jury. I have the papers here [producing a large pack-

age of papers]. All these that I have here were before the grand jury. There are some other papers in another bundle which came in subsequently that were not before the grand jury. There were certain papers that preceded the contracts, bids, &c.

Q. Did I understand you to say that you read those papers before the grand jury, or that you just left them there?—A. Oh, I picked out the particular papers that we regarded as important and read them to the grand jury. For instance, here is Mr. Brady's letter, asking the removal of the postmaster at Vinita. Then I had a memorandum in which Inspector Shorty reported that there was no foundation for the charges against the postmaster there.

Q. What did Brady charge against the postmaster?—A. He charged that the postmaster had not made proper reports and various things of that sort. That reminds me that the witness we wanted, and who was missing, was J. C. Blythe. He was the removed postmaster.

Q. And the post-office inspector reported that the charges against the postmaster were not sustained?—A. Yes, sir.

Q. But still the postmaster was removed, was he not?—A. Well, if you ask me whether he was actually removed or not, I cannot tell you at this late day.

Q. It was stated in the brief that he was removed.—A. Then that statement is undoubtedly correct.

Q. Who was the First Assistant Postmaster-General at that time?—A. Mr. Tyner. Here is the letter of Blythe, the postmaster at Vinita, dated Vinita, I. T., January 12, 1879, and addressed to Hon. D. M. Key, Postmaster-General, Washington, D. C.

In this letter Mr. Blythe says:

I have the honor to call your attention to route 32024 from this office to Las Vegas, N. Mex., on which service commenced October 1, 1878, 720 miles, once per week and return, increased to three times per week and return, commencing December 1, 1878. That, in my opinion, is wholly superfluous and a burden to the Department for the following reasons: First, that during the whole distance, 720 miles, there are only two intermediate offices, and they of minor importance, and can be easier supplied. Second, that there is no country through which the route passes—wilderness and desert—to build up the offices, perhaps two neighborhoods. Third, that during the time I have not as yet received to exceed perhaps fifty letters and half a dozen papers since the route was established and went into operation. Fourth, that the contractor is not complying with the terms of the contract.

Q. Vinita is near the eastern border of the Indian Territory, near the Arkansas line?—A. Yes, sir.

Q. Las Vegas is near the center of New Mexico?—A. It is some distance into New Mexico. The route runs across what is known as the Panhandle of Texas.

Q. At that time the Atchison, Topeka and Santa Fé Railroad had been completed to Pueblo, had it not?—A. I believe it had been completed part of the way there, because I remember that there was at some time a question about supplying those places by a drop from the line above. Here is the report of the post-office inspector that the route was unnecessary, and here are the papers which show that the postmaster was removed, the letter of removal "for cause," and the report of Inspector Shorty, that "an investigation of the above charges resulted in finding them not sustained in any particular whatever."

Q. Then the "cause" for which Postmaster Blythe was removed was that he faithfully discharged his duty?—A. That seems to have been it.

Q. Vinita is on the line of the Missouri, Kansas and Texas Railroad,

which runs through the eastern part of the Indian Territory, and it must be a place of some importance?—A. Yes. It appeared among the complaints, as I remember, that formerly Darlington used to get its mail by a “drop” from the railroad, and got it satisfactorily; but, for the purpose of getting some post-offices on to this route, it was ordered that the Vinita mail should go that way, and then they never got it satisfactorily. There was a row about it, and an agent went out there, and found that all that was necessary to remedy the trouble was to order the Vinita mail back on to the drop, and when that was done, it came all right.

Q. Was this map which you have here, exhibited to the grand jury?—A. I do not undertake to say that it was. My impression is that there was a smaller sketch shown to the grand jury.

The following is the map referred to:

The WITNESS. Now, with reference to the question of compensation of counsel, as bearing upon that question, I learn that some of this correspondence has been sent in reply to an inquiry from the Senate, and I may perhaps be permitted to put in one or two letters that passed on that subject between Mr. Brewster and myself. Here is a letter from Mr. Brewster:

706 WALNUT STREET,
Philadelphia, October 24, 1881.

MY DEAR SIR: Since you were here I have been reflecting upon the whole of our interview about the star-route cases, and have concluded to submit my thoughts to you by this letter. It was my impression and hope that Mr. MacVeagh would continue as the Attorney-General till December, or, if possible, while the star-route prosecutions were pending. Indeed, as I told you in my interview with him, I dissuaded him from leaving his position, and urged him to continue to be the Attorney-General if it might be acceptable to the President. He told me that he must leave, but that he would remain till December, or till after Congress would meet. Now, by a series of uncontradicted publications it is given out that Mr. MacVeagh will leave in a day or so and some other gentleman appointed to his office.

If that is to be so, I fear we will not be able to adjust with him the measure of our compensation as you suggested we must, and a stranger, not understanding the case and its necessities as Mr. MacVeagh certainly does understand them, will be our paymaster, and we will have difficulty in settling our compensation. What, then, shall we do?

It is plain that much time at home and at Washington away from our homes must be given to the preparation, argument, and trial of these cases; indeed, much of this has been given by you, and some study and labor by myself. I cannot consent to take all of this severe labor without some definite understanding with those in authority. My affairs here occupy all of my time, and I look forward with considerable misgivings to the propriety of my continuing in the cases, as a burden it will not be prudent for me to take up.

At any rate it is as plain as you said when you introduced the subject to me that we must have our fees settled and agreed on now so that we may have some understanding that will enable us to know if we are to be properly provided for and if not so we can withdraw in time to permit those in charge of the cases to supply others instead of you and myself if either of us will think proper to surrender our briefs and withdraw before it is too late.

Had Mr. MacVeagh been here and called to see me as he said he would when I last saw him in Washington I would, as you requested me to do, have presented this matter to him to take an early opportunity to see us together and enter into some stipulation with us, determining the compensation that must be paid us now and hereafter. Your voluntary introduction of this subject to me, and your request that I would speak of it to Mr. MacVeagh when I next saw him, has induced me to write you about it now.

I foresee trouble and dissatisfaction before us if we do not act now. You can probably learn if it is true that Mr. MacVeagh is now to leave the office and if a successor will be soon named.

It seems to me that we must act promptly with Mr. McVeagh and obtain his action in the matter.

For my part, the more I feel the presence of my affairs here, and the more I consider

the prospect of absence from home and the amount of labor I must give to these cases at home and at Washington, so as to do my full duty, a sense of hesitation as to my remaining in them presents itself plainly to my mind.

I am, sir, truly with great respect, your obedient servant,
BENJAMIN HARRIS BREWSTER.

Col. GEORGE BLISS,

Attorney, counselor at law, &c., Pine and Nassau Streets, New York City.

It was after this letter that we got at Mr. MacVeagh. On the 28th of October, Mr. Brewster transmitted to me the letter which I have introduced here, which he had written to Mr. MacVeagh, asking the payment of \$2,500, and stating the terms, and informed me that they had been acceded to. I merely refer to that to show that we at any rate intended to have a definite arrangement about compensation, and supposed we had got it. As bearing upon the same point, I may mention that Mr. Brewster, writing me from Washington when it was supposed that Mr. Phillips was called upon to do something, used this language, "I will not incur expenses and turn my back on my home and affairs to be hereafter higgled with and probably maltreated and slighted. That I will not bear." I believe I know nothing more that you have not got out of me in relation to the star-route cases.

THE OTTMAN CASE.

Q. In reference to the Ottman case, have you any paper that you desire to lay before the committee, in addition to the report which you made to the Attorney-General, and which is already in evidence?—A. I do not know that I have. I desire, however, to submit myself to examination in reference to that matter.

Q. I did not know but that you had some statement that you were prepared to make about that case.—A. No; I have prepared no statement, but I would like to answer any questions that the committee desire to ask.

Q. Did you understand at that time that the same rule of evidence applied in a civil suit against Ottman to recover the money stolen that would govern in a criminal prosecution?—A. Probably not absolutely the same rule of evidence. A jury undoubtedly has a right to act upon less convincing evidence in a civil than in a criminal suit, but it was a question of the general nature of the evidence.

Q. Who first called your attention to the Ottman case?—A. The Ottman case, as I recollect it, was first called to my attention one morning at the Arlington Hotel. After breakfast I was in the office of the hotel, and Mr. Crowley came to me, and addressed me, and asked me, I think, whether I was going to see Mr. Brewster that day. I think I told him that I was not, and inquired why he had asked. He said that Mr. Brewster had before him a case which he (Crowley) wanted him to act upon. I asked what the case was. He said it was a case of which he gave the name, "the Ottman case," and that he had applied to Colonel Corkhill in connection with it, but that Colonel Corkhill had been counsel in the case, and could not act, and had referred the matter to the Attorney-General, and that the case was before the Attorney-General, and Mr. Crowley wanted to know if I would not speak to the Attorney-General and try to get him to act upon it in some way. I never had heard of the Ottman case. I remember that I took down the name "Ottman" on a slip of paper. I do not know whether it was that day or not, but very soon after this conversation I spoke to the Attorney-General about it. I was in the habit of seeing the Attorney-General

nearly every day. It was rather a request of his that I should do so. He was green in his office. He did not know very much about the details of the office, and he had not a great deal of confidence in many of the subordinates about him.

Q. Those were subordinates that he had inherited from his predecessor?—A. Yes, sir; he did not know much about the details of the office, and I knew a good deal about the Department. At any rate, within a short time after Mr. Crowley spoke to me, quite likely the same day, I said to Mr. Brewster, "I have been asked to speak to you about the Ottman case," and I pulled out this slip on which I had written the name and asked him about the matter. He manifested some little knowledge of the case, though I think he knew nothing of the details, and he referred to the fact that it had been referred there by Mr. Corkhill. That was at a period when we all distrusted Mr. Corkhill. The Attorney-General said he must refer the case to somebody, and asked me to suggest a person. I told him I did not know anybody here to suggest, and then he asked me if I would not oblige him by inquiring around and ascertaining who was a fit person, and I did make some inquiry. I looked first to see about gentlemen who had been in the case. I found that one of them was Jere Wilson, but he seemed not to be available, because he was just then fighting against the Government in the star-route cases, and while he was not manifesting a very hostile spirit, some of his associate counsel were indulging in a good many personalities against Mr. Brewster and the other officers of the Government. I found that Mr. Totten had been suggested, or I thought of him, but he was put aside for the same reason. The matter was talked over all round, but I could not find anybody I could well recommend. I thought of Mr. Nathaniel Wilson, and I think I mentioned him to the Attorney-General, but when I went back to the Department I stated some reason which had been suggested, or which had occurred to me, why Mr. Nathaniel Wilson was not available. As I have said, I made inquiry, and several names were suggested and rejected. I think there were one or two interviews on the subject, though I won't be certain about that, and then it was somehow or other suggested that I should undertake the investigation of the case. I think Mr. Brewster suggested it himself, or at any rate said something that implied a wish on his part that I should do so. I told him I would undertake the investigation, but that I could not consent to be paid for it; that I would do it as a matter of personal favor to him. He said he did not see any reason why I should not be paid. I said that I was in the star-route cases, and I did not think I ought to be paid for this matter, and I went on. I supposed at the time that it was an investigation which would occupy perhaps an hour or two. I saw Mr. Crowley and told him the case had been referred to me. I do not think Mr. Crowley entirely liked it. I think his view was this: That if my report was adverse to him, my relations to the Attorney-General were such that Mr. Brewster would not be likely to overrule my report, whereas he (Crowley) would perhaps have two chances if the case was referred to somebody else.

Q. Did Mr. Crowley suggest that?—A. No, he did not suggest it; but something occurred which indicated that Mr. Crowley did not entirely like the reference to me. I applied for the evidence. I found that the district attorney had none. It resulted in that letter being written, which is in evidence here, referring the matter to me. That was carrying out a previous verbal understanding. I then set to work to find out what the facts were in the case, but I could not find any evidence.

At first, I remember, I got hold of the error book in the case of Halleck, who had been himself tried and convicted, and there had been an appeal and an error book made up, but after a while Mr. Crowley brought me a large bundle of evidence taken on the two trials. The evidence on the first trial was, I think, absolutely complete—the stenographer's minutes—but I think there was some break in the record of the evidence on the second trial, though not very much. The first thing I did was to sit down and read that evidence through. It took me eight hours of steady reading to read the stenographic report of the evidence on the two trials. I found that I had got into a larger job than I had anticipated. After reading the stenographer's minutes I commenced a pilgrimage around among the different lawyers who had been concerned in the case, and after that I began to see that I was getting into pretty deep water, and I wished I was out of it. I was confronted with this condition of things: I have always said, and I remember I said, in connection with this matter, to the Attorney-General, that I considered there was as much dishonesty in the Government or anybody else not paying a claim which it did owe as there was in paying one which it did not owe, and I said that this seemed to me to be a case akin to that. The Government claimed that the money belonged to it; but it had tried in two trials, one in 1876 and the other in 1877, to establish that fact, and had failed utterly, and yet the evidence satisfied my mind morally that this was really the Government's money. I could not resist that conviction. I have no doubt about it now. But the Government had tried twice over to establish the fact, and had failed. Once they had got six jurors, I think, or perhaps it was five, and the other time eleven against them, and the twelfth man was not even for them. He said he would not vote "guilty," and he would not vote "not guilty." He seemed to go upon the idea that they perhaps could find more evidence some time or other. I went to work to make inquiry also as to the character of the jurors, to ascertain whether they were a relic of the old time when it was said that juries here were "fixed." I found that there were among the jurymen several who were spoken of as entirely reputable and unimpeachable men, and, under the circumstances, I was a good deal bothered. I did not think the Government ought to give up that money, and yet I did not think they had any right to retain it without establishing their claim to it. I remembered also what I think has appeared in evidence here, that on three occasions Ottman's counsel had applied to the court to have the case proceeded with.

Q. The civil suits or the criminal suits?—A. Criminal suit.

Q. Was there any application on his part to have the civil suit pressed?—A. I don't know of any. I found that all proceedings had rested from the spring of 1877; that Mr. Wells, who had been district attorney in charge of the case, had remained in office for nearly three years after that, but had done nothing about the case, and I found all the counsel agreeing that there was no prospect of success in a criminal suit. Everybody appeared to agree upon that. I found, also, that Mr. Halleck, the chief witness, had gone West, and had gone away feeling dissatisfied with the officers of the Government—feeling that they had not kept faith with him. He had testified, under an agreement with Mr. Taft, the Attorney-General, which they were compelled, after a good deal of a struggle, to produce in court, promising immunity to him, and it was claimed that that immunity could only be given, under the terms of the promise, in case he testified in a manner satisfactory to the prosecution. At any rate, they had discharged him on his own recognizance, but they had never entered a *nolle*, and Halleck felt badly

treated on that point. I found, therefore, that Halleck was not a very available witness in any form. I was a good deal bothered about the matter. Mr. Wells expressed the opinion that he could succeed in the civil suit in establishing the claim of the Government to the \$12,500 (I think it was) which was on deposit in the bank at Alexandria. There was that amount of money on deposit, and as to a portion of it there was claimed to be evidence that it was derived from five-hundred-dollar bills, and as the money stolen from the Treasury was in bills of that denomination, it was claimed that this money in Alexandria was the proceeds of the robbery. I think there was some portion of the deposit that could not be so identified. At all events, there was \$12,700 there, and the suit was a proceeding in equity without a jury, and Mr. Wells suggested that the claim of the Government could be established. Mr. Wells is wrong in saying that there was any conversation between him and me with reference to the propriety of a compromise. The fact is that the first idea of a compromise that came into my mind was consequent upon his suggesting that that \$12,500 could be got by a proceeding outside of a jury trial. I decided that I would make a report upon the case—very much such a report as I finally did make; but after I had got ready to make it, and had got it perhaps drafted, I told Mr. Crowley that I was going to report that the money belonged to the Government; that it was very embarrassing, and that I was going to leave the thing substantially as it was; that I was not going to express an opinion as to what should be done about it. He sat down and undertook to argue that the Government could not establish its claim. I simmered it down finally to the point that we could establish the claim to the money in Alexandria. He said we could not, but finally I said to him, "Will you make a proposition to pay over the money at Alexandria?" He said he would not; he refused to do it; he said he would have the whole or none. "Very well, then," said I, "I will report against you." He then said, finally, that he was going to send for Ottman to come over and see about it. I told him I was not going to delay my report on that account, and I put in the report as it was. I went to Mr. Brewster with it. He asked me to state its contents, in general terms, and I did so. I think it would not have required much urgency to have induced him to approve the report on the spot, simply on looking it over and my reading it to him, but I said to him, "Now, Mr. Attorney-General, you want to consider that. It presents a very serious question. There will be a racket about it some time or other. It is going to come upon you practically, and these are the facts." He said I was right, and he would think it over. Then, either at that interview or at a subsequent one, I went a little into detail as to the evidence (I had not gone into detail in the report), and called his attention to various things that had occurred to me in connection with the case. A day or two afterwards I went in and we talked it over, and he said that he had decided to authorize me to see whether that arrangement could be made. I remember that on that occasion Mr. Brewster said, when I told him that there would be criticism of this matter, and that the public probably would not understand the giving up of money of which the Government claimed to be the owner, although the claim could not be established—I remember that he said that he had taken up the office with honor and that he meant to lay it down with honor, and that he should not have the approbation of his own conscience if, for fear of criticism, he refused to do anything which it seemed to him was right, and that he did not think it was right for the Government to sit there and hold on to this money which they had tried to establish a claim to and had failed. Then he authorized me to

make this negotiation. Mr. Crowley brought Ottman here. Ottman got up very much on his high horse, and at first would not agree to anything of the sort. I saw him for a few moments. Afterwards, either later in the same day, or subsequently, they came to me and said they would agree to the arrangement; but they wanted that I should agree to take the lawsuit practically at Alexandria, for there was a suit there for the \$12,500. That was a suit based upon the ground that there was a deposit to Ottman's credit and that the money out of which that deposit was made was the proceeds of these stolen bills, but the bank had issued a certificate of deposit for the amount, and that certificate had passed, subsequent to the arrest, into the hands of Matt. Carpenter, and he had passed it over to Russell Sage. I said, "No, that won't do. There will be a fight there, and I do not know how far they may come in, and I won't do that. You shall pay the Government that amount out of this other money which is here in Washington, and you may have your litigation with Matt. Carpenter's estate and with Mr. Sage." On that we differed for a while, and—

Q. You knew that that certificate was passed to Mr. Carpenter for fees that he had earned in defending Ottman?—A. I do not know whether I knew that or not. In fact, I never knew it; but I assumed it to be so. Then, I went on and made that statement, and reported it to the Attorney-General, and was authorized to carry it out, and did carry it out.

Q. Was it your opinion that in order to succeed in the civil suit it would be incumbent on the Government to prove Ottman's guilty participation in the receipt of the money?—A. It was my opinion that if Ottman had innocently received the money, and that money had been changed innocently into any other form, it could not be followed into that form; but that if the specific thing stolen could be traced, whether Ottman had got it in good faith or in bad faith, it could, I supposed, be seized; but the trouble in the case was that, in my opinion, the specific thing stolen could not be followed. All the evidence there was on the subject was the evidence of one man in the Treasury Department, that some bills put up in that package which was stolen were in the numbers of seven thousands. Of the series to which those bills belonged, there were some twenty-eight millions outstanding, and there were a hundred million and odd, I think, of that sort of notes, only that the series differed. They were issuing, at the time of the theft, bills which were in the current numbers of about forty-six thousand or forty-seven thousand. Now, the bills that were put up at that time were bills that had been issued once, and had in some form come back to the Department, and they took those bills in the six or seven thousands. And here again let me say that Mr. Wells is wrong in his testimony. The bills stolen did not follow in consecutive order, or in numbers which would be accounted for as not having changed their position. That was true of some of them; but there were breaks intervening. Mr. Wells's idea is that they, in making these bills, chopped down, making four at a time, and that they came in regular order; but that is wrong. You very often got a bill between the fours. And, moreover, the officer who took them from the vault and put them on the table swore distinctly not only that some of the bills had been previously issued, but that the bills put into that package had been disarranged.

Q. Was there not proof to show that a portion of this \$19,000 that was in Washington was made up of bills which were in the continuous series of fours?—A. Some of them were in continuous numbers of fours, but, as I have said, there were some breaks between them. For instance,

instead of fours there would be twos between. The officer swore distinctly that they had been previously issued, and also that numbers of that size must have been issued as long as six or eight months before. Therefore those bills had probably been out of the Department somewhere six or eight months, and they had subsequently come back. Now, there was no reason why they might not have been passed honestly into Ottman's hands, even if they had been kept together. That was the argument used, but, of course, I did not believe that the fact was so.

Q. You believed, from the evidence in the case, that those were the actual bills stolen?—A. I did form that opinion; and yet, as a jurymen, I would not have found a verdict of guilty upon the evidence.

Q. If that was so, how did you arrive at the conclusion from reading the evidence that those were the actual bills stolen?—A. Well, simply from the evidence; but if I had been asked, as a jurymen, to find a verdict of guilty on that evidence, it would have been different.

Q. Still, in the civil suit, would not the case have been decided upon the preponderance of evidence, and would not the evidence which decided your mind probably have satisfied the average jurymen?—A. I think not. I thought that the evidence to establish the identity of the bills was not sufficient even for a civil suit.

Q. In a civil suit it was not necessary that the jury should believe the fact to be so beyond a reasonable doubt. It was only necessary that they should *believe* it?—A. Yes.

Q. As you believed it?—A. Yes.

Q. Now, under those circumstances, believing from the reading of the evidence in the case that that was the actual money stolen from the Government, why did you not recommend the continuing of the civil suits and let the claim of the Government in the premises rest upon the result of the trial, whatever it might be?—A. As to believing that this was the Government's money, I formed the opinion from the evidence, as I read it, that there was not enough of it to lead to the obtaining of a verdict for the Government in a civil suit. I may have been wrong, but that was my judgment of the evidence.

Q. But you say the evidence did convince you?—A. *You* say it convinced me.

Q. You believed that the money belonged to the Government?—A. Yes; but if I had been acting under an oath as a jurymen, in a case where I was to pass upon the property of an individual in that way, I do not think that I could have found such a verdict. I am bound to say, too, that there probably entered into my mind the consideration that I was perhaps a little better able to discard the doubts that would be thrown around the question than an average jurymen would be. I came to the conclusion that there could not be a verdict for the Government recovered in the civil suit, and I did not find anybody who thought there could be one except Mr. Wells. Mr. Wells seemed to have some idea of that kind. There was no attachment suit pending which attached all this \$19,000 in this District. The attachment had been practically worked out upon some land which proved to be mortgaged for all it was worth and upon a racing horse which ate itself up. Mr. Wells seemed to have some idea of extending the attachment so as to cover this property or some idea of bringing a new suit, but he was the only person who suggested to me the idea that the money could be recovered, and there were reasons why I did not give to Mr. Wells' opinion the same weight that I gave to that of other gentlemen.

Q. Can you cite a precedent in which the property in controversy

was alleged to have been stolen from the Government, and where the Government compromised the case by taking a portion of the alleged stolen property or money, giving another portion to the defendant or the person charged with the theft?—A. I don't know that I can. I have known of the Government doing things which were very much akin to that. I have known of the Government making seizures of goods and releasing a part of them.

Q. But in those cases the Government never claimed to own the goods?—A. Yes; it claimed to own them because the moment smuggled goods are seized they are forfeited to the Government.

Q. Yes; but the parties originally had the bona fide ownership of the goods; but here is a case where the money in controversy was either the property of the Government or it was not. Either that money was stolen from the Government or it belonged to Ottman, and the Government had no right whatever to it—is not that correct?—A. Yes.

Q. Now, has it not been the universal practice in such cases for the Government to rest its claim upon the verdict of the jury or the court in a civil suit?—A. I don't know whether that has or has not been the universal practice.

Q. Of course you realize the fact that it is much more difficult to make the required proof in a criminal case than in a civil suit?—A. It is more difficult, and in some classes of cases much more difficult. But in other cases I don't know that it is much more difficult. It is much more difficult to prove a murder so as to justify a verdict of guilty than it is to recover damages for assault and battery, though both prosecutions may arise out of the same fact. But, on the other hand, where you are going for money, and where in either case, civil or criminal, the question turns upon the identity of the money, negotiable Treasury notes which are in circulation, while it is undoubtedly more difficult to get a verdict in the criminal case, I do not think it is much more difficult. You have got to make the evidence pretty clear and strong to get a verdict in either case.

Q. Ottman, in this case, was a saloon-keeper, I believe?—A. I understood that he was.

Q. He was known not to be a man of large wealth, and not likely to have much ready money—\$40,000 or \$50,000?—A. Upon that point let me say that it did appear that there was one transaction where he had \$10,000 or \$12,000 available to make a purchase.

Q. But he could account for that money and tell where he got it?—A. I don't know whether he could or not.

Q. But suppose he had insisted that this money belonged to him, would it not have been incumbent upon him to account for it and to show how he had become possessed of it?—A. I think he would have had to account for it, but if Mr. Ottman were a rascal I felt that he would be able to account for it.

Q. Was not the amount that was seized in this city, over \$19,000, found concealed in such a manner as to indicate that he had not become possessed of it in any legitimate way?—A. I have no question about that. My recollection is that the money was put into a box and placed as a special deposit in the bank at Alexandria. There was a deposit there to Ottman's credit, and then he had this special deposit in this box, and among his suspicious transactions was the hiring of a negro about the jail to go down to Alexandria and get this box from the bank. All this showed that if those were not the proceeds of the Treasury robbery Mr. Ottman had probably got them under such circumstances that he did not want them to be traced or followed.

Q. Was there not proof of the fact that he was working off those bills?—

A. To show how completely a gentleman may be in error in his recollection (I speak after having read over again the stenographer's minutes of the trial since this inquiry has been going on here), Mr. Wells testified that up at Saratoga, N. Y., there was a bill passed of that denomination. The witness from Saratoga said distinctly that he did not remember anything at all about the denomination of the money passed there; yet Mr. Wells gave you a different account of that evidence, and gave it, of course, in perfect good faith. He also told you that they proved the passing of some of this money at Worcester, Mass. Now, the witness from Worcester said distinctly, "I cannot identify the man ["Peg-leg" Brown] as the man from whom I got it." The identification in those cases was not satisfactory. There had been dealings with Brown. Brown had gone to Saratoga, and had bought some drafts and made some remittances from there, but it did not appear in evidence that they were bought with \$500 notes. Mr. Wells was wrong about that. It did appear also that Brown was there at Saratoga; that the races were going on; that there was some betting upon the races, of course; and therefore there was a theory on which that money transaction could be explained. It appeared that there had been put into one Boughton's hands six or eight or ten thousand dollars in \$500 bills, and there were certain \$500 bills undoubtedly that were traced directly to Ottman. At least, that is my recollection. I notice that there must have been a desire at some time in this examination on the part of some member of the committee to make Mr. Cook say, and finally perhaps he was made to say, that the Treasury clerks recognized the denomination of the bills as found; and, at another stage, that the envelope in which the bills were put up was found. All I have to say about that—and I say it after reading the testimony on the trials, and I shall be happy to give the committee the references if necessary—all I have to say about it is, that it appeared positively from the evidence on the trial that when the bills were found there was no envelope. If there had been an envelope it had been destroyed or had disappeared; the bills were simply strapped up. And as to the recognition of the bills, there was only one witness, I think, a Mr. Whitney, from the Treasury Department, who had any recollection of the money, and Mr. Whitney's only recollection was that among the bills that went into the stolen packages were some that were in the seven thousands. These packages contained some bills in fours and fives, and some in sixes and sevens—quite a number in sevens. Then, again (it is unimportant, probably, but I merely call attention to it as showing the fallibility of recollection), Mr. Wells told you that the package had passed along among the people in the Treasury, and that Halleck was the fourth man to whom it had been passed, and that it never was seen after it came to him. Now, in point of fact Halleck was the first man; his seal was put upon it and then it passed immediately on. In the next place, Mr. Wells told you that it was possible for somebody upon the outside to have reached over and stolen that money. I could refer you to passages in the testimony on the two trials where it is stated affirmatively that it was not possible to do that, but it is sufficient to say that Halleck himself testifies that when the mythical Gates told him that he had taken the money in that way, he, Halleck, at once said to him, "That is too thin; that would not work;" and it appears affirmatively that this was the first package put up, that they were piled quite high upon the table, and that this was one of the *under* packages, the others being piled on top of it. As to Gates, it does not make any difference whether he

existed or not. I say he did not. Upon that point, Mr. Wells placed a good deal of reliance upon the fact that there was a memorandum found on Ottman which he said was signed C. Gates. In fact, there was not any such memorandum found. There was a little slip of paper which had upon it a "C" and something that you could make out as "G." It did not relate at all to a division, although it related to money. Halleck's statement as to Gates was this: that the money had been stolen; that all the people in sight were under suspicion including himself; that he was in a drinking saloon, not Ottman's, and that somebody whom he had never seen before approached him and asked if he was Halleck, employed in the Treasury Department; that he said he was; whereupon this person told him that his name was Gates, and said, "Now if I can turn up that money or tell you where it is, will you divide?" Halleck said that without a moment's hesitation he answered that he would. On cross-examination he was compelled to admit that at the time of this alleged interview he knew he was under suspicion, and that he thought every man was a detective upon him, and he was unable to state any reason why, under such circumstances, he so promptly "gave himself away" in this manner. He went on to say that Gates took him into a closet in this drinking saloon and pointed up on top and showed him there one \$500 bill as a specimen; that subsequently it was taken down; that then Gates told him that the money was deposited in the water-closet in the Treasury Department; that he, Gates, would not bring it away, and that he, Halleck, would not bring it away, because it would cause suspicion, but that Halleck put his hand down and felt something like money under the seat, and felt the strap on the package, which convinced him that the money was there; that he went away to get somebody to get it out, and that he went and talked with Ottman; that Halleck went into one of the closets and took this money out and found a memorandum, which he destroyed, and went into the next water-closet and turned around towards Ottman, and that Ottman pulled the package out and took it away; that he, Halleck, never saw it afterwards; that he did see Gates once or twice afterwards, and that he and Ottman proceeded incontinently and promptly to cheat Gates out of his share and gave him no portion of it. Halleck could not name any person who had ever seen this "Gates" or knew where he lived. He did say, on cross-examination, that he had heard of one man who knew him, and then he explained that he had taken "Gates" into a soda-water saloon, and that this man had served them, but did not know that that was Gates. Halleck had previously made several confessions, in which he had admitted that he had stolen the money himself; and it is a remarkable thing, in view of the testimony of Mr. Wells here the other day, that he expressed the opinion upon the first trial in his address to the jury that Halleck was himself a thief. I don't suppose it makes any difference as to the propriety of the settlement whether "Gates" existed or did not exist, but I am entirely convinced from the evidence, and so was Mr. Jere. Wilson, who was the brains of the prosecution, that "Gates" did not, in fact, exist, and that Halleck himself stole the money.

Q. Halleck stole the money and the Government lost the money?—

A. The Government lost the money and Halleck stole it. I have no question about it. However, if I were acting as a jurymen and dealing with a man's property or money, I believe I could not have found such a verdict on the evidence. Still, my belief is that that was the Government's money which was found in Ottman's possession.

Q. Something was said in your report about the *bona fides* of the other

claimants of a part of this money.—A. I spoke of the *bona fides*, *subject to the claim of the Government*. Here was a negotiable certificate of deposit, and whether that certificate of deposit when it passed from Carpenter to Sage was so held that it could not be taken *bona fide* was the question.

Q. If it passed to Carpenter in payment of his fee in the Ottman case, of course he must have had knowledge of the facts?—A. Of course.

Q. And after that, a subsequent assignee must look to Carpenter; is not that so?—A. Well, I think it would depend on how soon the certificate had passed. I think if that certificate had passed to Carpenter the very day it was issued, and the next day it had passed, without knowledge, to Sage, and Sage had given value for it, there would be a question. But I said, always, the *bona fides*, *subject to the claim of Government*; and that limitation does not seem to have been noticed in the examination here with reference to my report.

Q. In what way were you baffled in your attempt to secure a negotiation?—A. Well, I was baffled originally because I was going directly for the \$12,700 in the bank at Alexandria; but when I found these assignments I discovered that if I took a conveyance from Ottman of the money there I would have to litigate with those other parties.

Q. If the money was the Government's there could not be any *bona fides* as against the Government.—A. Undoubtedly; but Mr. Sage was going to come in, for he held this certificate of deposit, and the question was whether the Government could establish its claim to this money.

Q. He stood in Ottman's shoes though?—A. Not as a holder of negotiable paper.

Q. He could not stand in any better shoes than Ottman's?—A. Perhaps not. At all events I got around those difficulties, which embarrassed my mind considerably, by refusing to take the money in Alexandria and merely using it as a measure of the money that we were to have, and compelled the other side to pay that money from the available fund here and let them deal with the question about the money at Alexandria. There was considerable difficulty in bringing them to that point.

Q. Of course, Mr. Sage could not have any better right to the money than Ottman originally had?—A. No; but Mr. Sage had a right to compel the Government to prove that that money was stolen.

Q. So did Ottman have that right?—A. Undoubtedly. But Mr. Ottman was not going to admit that the money was stolen. Therefore, if we had settled with Ottman and then had to litigate with Sage, we should have had the same thing over again.

Q. But you could not have settled with Ottman except by proceeding with your suit, and then you would have been bound by the result of the litigation?—A. Probably; but we would have got only the \$12,000 that we did get, anyway.

Q. That suit would have determined the Government's rights in the matter, leaving Ottman and Sage to fight out their respective claims. But I do not see how the fact that Sage was the assignee of Ottman's certificate of deposit could embarrass the Government in the litigation?—A. Not if we went on with the litigation, but when we came to talk of the settlement it was an embarrassing thing if we were to take simply the Alexandria bank money, and I would not take it. They tried for some time to get us to take it.

Now, let me say, in reference to the testimony you have had here that Ottman at one time offered to compromise the matter by paying a large sum of money, that Mr. Wells never suggested anything of that sort

to me in our conversation. Mr. Wells is greatly mistaken as to the length and breadth of the conversation between us. He did *not* tell me what the evidence on the trial disclosed as to this, that, and the other thing, because I knew it all before. I had read the evidence, and was more familiar with it than he was—several little things showed that I was. Then, we had not any such length of conversation as Mr. Wells seemed to think, and in that conversation he never suggested to me that there had been an offer to pay \$35,000. I never heard of any such offer until it came out in this testimony, and Mr. Ottman has addressed a letter to Mr. Merrick, in which he says that he never heard of any such proposition being made, and never authorized any such proposition in any manner. I don't know anything about it myself, except that Ottman has written Mr. Merrick such a letter. Mr. Merrick was sick, and his partner sent me the letter.

Q. Did you receive any compensation from the Government for your efforts in connection with the Ottman case?—A. Not a cent; nor from anybody else. I got the kicks and the cusses, and that is all I did get.

Q. Then you have performed all this labor for the Government without any consideration?—A. Yes, sir; when I commenced it I told Mr. Brewster that I would do it as a personal kindness to him.

Q. Were you not actuated by any desire to be personally kind to Mr. Crowley, also?—A. No; not at all.

Q. Did Mr. Crowley tell you how much he was interested in the case?—A. No, sir; I never knew anything about that.

Q. And he never offered to make you a present or to remunerate you in any way for your assistance in the matter?—A. No, sir; Mr. Wells suggested some idea that on another trial they could get along without Halleck's testimony. Now, I am bound to say that that struck me as absurd. He said that they had got along on the first trial without Halleck. That is true; but how? Because, by some extraordinary rulings of Judge Olin, who made a deliberately prepared ruling, in which he said there were two things to be proved in the case, the first being that Halleck stole the money, and held that the testimony of the declarations of Halleck, though he was not a witness, were good to prove that he had stolen the money. Mr. Wells says that Halleck did not steal it, but the first trial proceeded on the theory that he did. Then the judge let in all Halleck's declarations out of court, not only to prove that he stole the money, but to prove what he did with it—that he gave it to Ottman, and so forth. Now, I do not believe that is good law or that it could be sustained. On the first trial Judge Olin was obviously determined to have a conviction, and he went for it. On the second trial Halleck was a witness. Now drop Halleck out. In the civil suits you could not put in statements made out of court of what Halleck had said to anybody about that money. There would not be any pretense that you could do that, and you could not get ahead as far as from here to the door with the case without Halleck's testimony. Without the testimony of Halleck, you would simply prove that Mr. Ottman had a lot of five-hundred-dollar bills, some of them in the seven thousands, and that he was arrested and that he acted suspiciously. Halleck's testimony was absolutely essential to that case, whether in a civil or in a criminal suit. No lawyer can look at the evidence and have any doubt on that subject. Mr. Wells got very much interested in the case and felt very strongly about it, and he went so far (as appears from the evidence on one of the trials) as to put a detective under a bogus conviction into Halleck's cell and keep him there three or four weeks for the purpose of extracting a confession from Halleck. I have been

told outside that that is true, and that it is considered that Mr. Wells went pretty far in so doing. I mention it not to censure Mr. Wells, but to show that he took a very great interest in the case. The case was prepared with most wonderful care and detail. Jere Wilson seems from the record to have been the leading counsel for the prosecution, and I must say that I have never seen a case prepared with more care or detail, and it was very clear to my mind that in either a civil or a criminal suit you would not be likely to get so much of a case again.

Now, as to this matter, all I can say is that I acted in entire good faith in recommending the settlement. If I had to do it again, and found myself in the same position of having undertaken a thing without knowing its extent, I would make the same recommendation. I am sure also that the Attorney-General acted in entire good faith in making the arrangement, and acted with a full knowledge of the facts so far as I could gather them as they were stated in my report, and partly stated orally to him, and he acted, too, with a full knowledge that he was doing a thing of which other people might take a different view, but which was one of the burdens he was bound to accept with the honors of his office.

Q. Did you say that he understood the details of the compromise?—

A. He understood the details at the time—they seem to have passed from his mind subsequently; but the question of that settlement was talked over with him by me certainly at two interviews which occupied a good deal of time.

Q. Did you answer the dispatch which is printed on page 672 of our record?—A. Yes, sir.

Q. You refer to the dispatch dated Washington, July 9, 1883, in which the Attorney-General asks you, "Was the \$12,500 all the Government was to have in the Ottman case?"—A. I know I answered it. My present recollection is that the dispatch came late at night, and that I answered it from my house.

Q. You answered it in accordance with the fact that the Government was not to have the \$12,500 at Alexandria?—A. Yes, sir. Now, I want to say one thing in reference to this case, and to ask the attention of the committee to it. The first witness examined here upon the Ottman case is Mr. Cook, and he states emphatically that he is still counsel in the case. Being still counsel in the case he goes on and makes these statements: That a third trial would probably result unfavorably to his client; that fresh information could be obtained; that from personal conversation and knowledge he has no doubt that the case could have been adjusted originally by entering a *nolle*, the money being all given up; that the Government could have got judgment against his client in the civil suits; that Mr. Ottman had no property; that in his (Cook's) opinion the money was the money stolen from the Government, and that Mr. Merrick advised Ottman to plead guilty. Then he goes on to say that he is not at liberty to say what he learned in his professional relation, and he adds that he would not believe Ottman, and that Ottman may have lied. Now, that is a counsel referring to his own client. I hope the committee will examine Mr. Merrick and see whether Colonel Cook's statements as to his having an opportunity to go into the civil suits, and refusing to go into them, and as to what he says Mr. Merrick said to him about advising a plea of guilty are true. I hope they will also ask him whether Colonel Cook did not put into the trial of that case some witnesses for the defense who were so clearly perjured that both Mr. Carpenter and Mr. Merrick refused to have anything to do with their examination. That, perhaps, is not pertinent to this inquiry

except as it indicates the character of the man who comes here and talks about this matter.

Now, as bearing upon myself, let me say that I am informed from sources which I believe are correct that it is intended to come in at some time hereafter with a fresh swash-bucket of filth and abuse of me. All that I have to say about that is that if anything comes in here reflecting upon me or upon my action, I shall ask the committee to give me a chance to meet it. I wish to say, finally, that in my whole relations to the star-route cases I acted as an honorable, high-minded counsel is bound to act in every case with reference to the matters confided to him, and that I never was influenced in any way, so far as I know, by any improper influences, or anything of the kind. I may have erred in judgment from time to time. I do not see very many of those errors, but if errors were made, they were errors of judgment.

The CHAIRMAN. The chair has no information of any such intention on the part of anybody with regard to you.

The WITNESS. I presume not; but I have received such information.

The CHAIRMAN. Of course the committee are not testifying. We are investigating these matters, and we have to hear the witnesses who present themselves.

The WITNESS. That is all right. I do not object to your examining anybody, nor do I ask to be present when you are examining them. I merely say that if anything is said hereafter by any witness reflecting on my conduct in these matters, I shall be glad to have an opportunity to answer it. I don't suppose it will carry much weight, but I may as well, perhaps, put on record here that on the 7th of December, 1881, Mr. Cook made a report to the Acting Attorney-General, in which in three several places he enlarged to a considerable extent upon the industry, fidelity, and ability which Mr. George Bliss had brought to the preparation of the star-route cases.

I have here a copy of a letter which I wrote to Mr. Lawrence, the First Comptroller, in 1882, when he called upon me with reference to my bill, for a statement of the arrangement under which I was employed. I think the letter may as well go into the record. It touches the question of the rate of compensation and the contract and so on. The letter is as follows:

NEW YORK, *November 12, 1882.*

SIR: I beg to acknowledge receipt of yours of 10th. In reply I have to say that my retainer in the star-route case came about in this way: I first was applied to informally by Hon. Thomas L. James, then Postmaster-General, to accept such retainer. I declined on the ground that I had for some time declined such retainers from the Government because there were always delays in payment, charges were cut down, and work was not appreciated. I was urged to reconsider this, and was finally sent for to meet Attorney-General McVeagh and Mr. James at Long Branch. I there agreed to be employed. As to my rate of charges, I said, and it was agreed to, that I was content to leave that to be settled by the Attorney-General, then present, or his successor; but that I might be at liberty to refer his successor, if he had one during my time, to him in case his successor's views did not agree with mine. I also stated, and it was accepted as proper, that I had not for years accepted a retainer which involved my being away from New York City for less than \$100 a day and expenses during my whole absence; that no client had a right to require me to travel at night, and that if I worked a day and traveled a night I charged it as two days, and that my charge of \$100 per day did not cover what I regarded as work involving extra labor, strain upon the brain, such as elaborate argument in court and engagement in trials. I stated that I knew this would seem large to any one not accustomed to New York rates, and that I should not work for the Government for less than that, that general rate to be accepted as the basis, with possible additions or reductions as experience might show was proper, and that the Attorney-General should be the judge as to these. My terms were accepted. By this I do not mean that there was any written agreement or any formal stipulation, but that the Attorney-General and Mr. James said that the matter was satisfactorily arranged, and a short time after

I received a written appointment, though it did not, I think, come till after I had been at work some time, and was then made to take effect from an antecedent date, which, however, was later than my actual engagement, and left me with some little time during which I had been at work, and for which I have never received or asked pay.

When Mr. MacVeagh was about to leave office, I, at the request of the present Attorney-General, rendered a bill, having had one previous payment. Mr. Brewster informed me that he had submitted it to Mr. MacVeagh, who had informed him that it was less than he expected, and Mr. Brewster expressed the same opinion. I called his attention to the fact that it was not rendered as in full, and was not intended to be so, as I thought when I came to render a bill for a period covering a trial I should "even up things."

I may be permitted to add that had I supposed the engagement would take my time so exclusively as it has, I should never have accepted it at the rate referred to, or, indeed, at almost at any rate. It has practically taken my entire time for over a year, taken me from my home and my office. It has broken up almost entirely a business which I have spent twenty-five years in building up, and has been a thankless and unsatisfactory business. I have made more than one formal application to be relieved, and would forego much if I could now be allowed to go out of the cases. I came in unwillingly, and I remain unwillingly, and at a personal and pecuniary loss. At the same time I know that the payment to me and other counsel seem and are large; but it is not my fault. I was employed with a distinct understanding of what it would cost, though it was not, I presume, supposed the labor would be so continuous. I think I may say that no time has been wasted. I have *every* day given to the Government at least *twice* the number of hours of work that the Department exact from their subordinates, and have worked as many hours Sundays as other days. I may without vanity add that is the opinion of every one who has had anything to do with the star-route cases that whatever of success there has been would not have come but for my labor and perseverance.

With this statement, which I am prepared to make oath to, I now ask that my account, as certified by the Attorney-General, be promptly passed.

To meet one inquiry in your letter I beg to add that the bill now before you covers all services rendered by me between May 26, I think it is, and September 13; that it covers the entire period of trial of the case of the United States *vs.* Brady and others; that it also covers services before the grand jury in presenting to them various cases against Price, to Messrs. Salisbury, to Messrs. Parker, Mr. Kellogg and others; that it covers some preliminary motions in the case of United States *vs.* Brady and others, and also covers much of investigation and correspondence as to other star-route cases between the dates named. Besides this I have regarded it as to some extent covering the services rendered previous to May 26, and for which I had been paid in part. In short, it was intended to be a bill in full up to its date.

Your obedient servant,

GEORGE BLISS,
Assistant Attorney.

Hon. WILLIAM LAWRENCE,
First Comptroller.

In reply to a request by the chairman that Mr. Bliss would give the committee the benefit of his views as to the policy of compensating United States district attorneys and marshals by salaries instead of fees, the following letter was received:

NEW YORK, April 4, 1884.

DEAR SIR: In reply to your favor of yesterday, I have to say that as the result of my experience as United States attorney for the southern district of New York from 1873 to 1877 (during which time I probably received more fees than any other officer ever received there, except one of my predecessors), I am very decidedly of opinion that the system of compensating district attorneys in any degree by fees is vicious, and should be cut up by the root. I publicly expressed this opinion while still holding the office, and observation has confirmed me in the opinion. Even the best and most conscientious officer is liable to be unconsciously influenced by his possible interest in the results of his action, while the fact that he has such an interest exposes him to distrust and suspicion in court and out of court.

As to marshals I cannot, of course, speak from experience. In this district I do not think the evils of the fee system, in their relations to the marshal, have ever been very marked, nor do I think they have been great in the case of the deputy marshals; but in other districts in the States I believe they have been very great, though I think they are not so now. Still, there are evils and evil influences in the system, and it should be abolished as to them.

The difficulty here will be, however, as to the rate of salaries. It is difficult for Congress to understand the high rates of compensation which prevail here among

lawyers and those fit for the offices. Even with the dignity and position of judge in this district it is always difficult to find a proper man for the place, and the selection is always and necessarily confined to those having a private income. With district attorney and marshal the difficulty would be greater to get good men for inadequate salaries—that is, salaries inadequate as rates prevail here. An efficient and competent district attorney saves to the Government here tens and hundreds of thousands of dollars a year by the energy and ability with which he defends the thousands of suits which in effect settle the rates of duty to be exacted throughout the country in millions of dollars' worth of importations.

When legislating on this subject some provision ought to be made as to the bailiffs and officers attending upon courts. There are three and four terms or branches of the courts in session here nine or ten months in the year. The attending officers are now paid inadequate sums, and even that under some device to comply in form with the law.

While writing, may I avail myself of the opportunity to make an explanation, which I desire should be brought to Mr. Fyan's attention, and which should perhaps go in some form into the record.

Mr. Fyan asked me if I had ever said that I was satisfied with the action of the grand jury or that I was only dissatisfied as to one case, and I answered I had not. While this is strictly correct, I have an indefinite impression that in conversation with one or more of the jurymen, who were apparently desirous of talking on the subject, I did say that I had no right to complain of their action, though I could not agree with their judgment, meaning that I did not share in some current complaints as to undue influence. I think, also, that on one occasion when a jurymen referred to the Soledad and Newhall route, on which I thought we had failed, I did say in substance, "We'll accept your action as to all the others; I can't see the wisdom of your course as to one route," which I named; I cannot say whether it was Fargo and Pembina or Wells and Hamilton. As to all this my recollection is indefinite; I was in an embarrassing position with the jurymen; I had no evidence of improper influences, or motives, yet I dissented from their action, and therefore when any of them spoke to me I "slid over" the matter easily.

Mr. Fyan also asked me as to a witness named Parrish, whom he connected with a *Salisbury* route. I do not remember to have ever heard of him in connection with any route, but Mr. Brewster Cameron informs me that a man named Parrish was connected with the Vinita and Las Vegas route, which was known as a Parker route, not a *Salisbury*. I know nothing about it, however, but Mr. Cameron can doubtless tell you.

Your obedient servant,

GEORGE BLISS,

Hon. WM. M. SPRINGER,
Chairman.

WASHINGTON, *May 7, 1884.*

The following letter from Mr. George Bliss was received and ordered to be inserted in the record:

160 BROADWAY, NEW YORK, *May 1, 1884.*

DEAR SIR: In returning the proof of my testimony corrected I ought, perhaps, to call your attention to the fact that while my answer to the second on page 300 is correct, I ought, perhaps, to say that the Attorney-General when deciding that Mr. Kellogg should be prosecuted directed that the case should not be proceeded with until he ceased to be Senator. My answer, "No human being", &c., is so much broader than the question that I have thought I ought to mention this fact, lest it might appear that I misled you.

Your obedient servant,

GEORGE BLISS.

Hon. WILLIAM M. SPRINGER,
Chairman.

MONDAY, *April 7, 1884.*

JOHN L. SARGENT sworn and examined.

By the CHAIRMAN:

Question. Please state your residence and occupation.—Answer. I reside at 913 E street N. W., in this city. My occupation is that of an independent detective.

Q. State whether at any time you were employed by any of the attor-

neys to aid them in the prosecution of the star-route trials?—A. I was, sir.

Q. By whom?—A. Col. William A. Cook.

Q. How long did you continue in the service of the Government?—A. I continued, I may say, from the 1st of June until January, 1881. Colonel Cook sent for me and desired my services, and afterwards, in July, he and Mr. Gibson recommended to the Department of Justice that I be employed, and I think my employment commenced about the middle of July in the Department, and I was paid by them until they stated that my services were no longer required, which I think was in January, 1882.

Q. Do you know how much you were paid for your entire services?—

A. In the neighborhood of \$100 a month. I think it was at the rate of \$3 a day; 25 cents a day was allowed me for car-fare.

Q. Did you have any assistants or any persons under your employ assisting you?—A. No, sir.

Q. Were other detectives employed by Colonel Cook, so far as you know?—A. Yes, sir; I think Colonel Moore was employed. I do not know this of my own knowledge, but I used to see him in connection with Colonel Cook.

Q. I am asking especially whether there was anybody else employed in connection with you?—A. No, sir.

Q. What was the nature of the duties which you performed?—A. The first duties which he required of me were to get the names, residences and avocation, and general habits and associations of the grand and petit jurors.

Q. Then impaneled?—A. Yes, sir.

Q. What was the object of that information?—A. I do not know, sir.

Q. Did you make a report to him?—A. I reported verbally every day.

Q. Did you make a written report?—A. No, sir; I never made a written report, but I reported verbally every day, and also verbally to Mr. Newcome, a special agent of the Department of Justice.

Q. Did he make any notes of your reports?—A. I think not; because I was specially assigned to duty there by Colonel Cook.

Q. Did Colonel Cook make any notes or memoranda of your reports?—A. He may have done so. I do not know. I don't remember that he did.

Q. You do not remember that he took any notes of your statements?—A. Not that I am aware of.

Q. Did you report with regard to the members of grand and petit juries?—A. I did.

Q. As to all of them?—A. Yes, sir; their general reputation, character, &c., and also during my service Colonel Cook desired me to assist Special Agent Henderson of the Post-Office Department in the arrest of Lilley and Broht. He had the warrant for their apprehension, and I pointed out Mr. Broht to him and also Mr. Lilley, and they were taken into custody. During that period the Signal Service Bureau desired that the Attorney-General should render some assistance in the arrest of Howgate, as Lieutenant Caziarc had discovered that he was a defaulter to the extent of some \$40,000, or an embezzler at least, and Mr. Newcome was assigned to that duty. He went to Mount Clement, Mich., and apprehended Howgate and brought him back. In the mean time I had hunted up the records and discovered that Mr. Howgate had at least \$100,000 worth of real estate in the District of Columbia. He was placed under bonds and was released on bail. A short time after he was released on bail further discrepancies in his accounts to the amount of sixty or seventy thousand dollars more were discovered, and

a new warrant was issued for his arrest. He heard of it in some way and left the city. Colonel Cook, who had been appointed special attorney to prosecute him, immediately attached all his property, which is under attachment up to the present time. Mr. Newcome went to New York and made every effort to discover his whereabouts, but failed. Finally I discovered that he had come to town one night and had quietly gone to his house. I went to Mr. Newcome and placed an officer in the front and rear of the house and arrested him the second time. He desired me, or his family did, to remain with him over night and not to put him in jail. I told Mr. Newcome I would do so. I did so. Next morning I surrendered him to the marshal of the District and he was placed in jail; his bondsmen on the prior warrant having surrendered him and he being unable to get any new bond. After he had been in jail some time by order of the court, under the plea of desiring to examine some important papers, he was allowed to go, in the custody of a deputy marshal, to his house to examine these papers; the last time he went he left the marshal in the front room and he went out the back door, and that is the last that has been heard of Mr. Howgate.

Q. What deputy was that?—A. C. H. Doing.

Q. Was he a deputy under Marshal Henry?—A. He was a deputy under Marshal Henry.

Q. What has been done, so far as you know, in regard to apprehending Howgate since his escape?—A. Nothing that I know of. I have had nothing to do with him since I placed him in the custody of the marshal.

By Mr. FVAN:

Q. What was the date of this escape?—A. I am not able to tell you; the records of the court will show that.

By the CHAIRMAN:

Q. Is Mr. Doing still in the service?—A. I think not. I asked a deputy marshal yesterday whether Mr. Doing was still in the service, and he told me he was not.

Q. Do you know whether the suits or attachments still exist?—A. Yes, sir.

Q. They have not been prosecuted to success?—A. No, sir; it was his escape that gave the Government an opportunity to attach the property. Because, as I understand the law of this District, a man has to be either a non-resident or fugitive from justice before you can attach his real estate.

Q. Do you know whether any effort has been made to discover his whereabouts?—A. I do not.

Q. All you know about it is what you did in the matter?—A. Yes, sir; I arrested him on the second occasion. Mr. Newcome arrested him on the first occasion at Mount Clement, Mich.

Q. Did you have anything to do with the arrest of Ottman?—A. I did.

Q. State what you did in that matter.—A. Well, there was a robbery of \$47,000 in \$500 bills from the Treasury Department on June 2, 1875. The Government officers failed to apprehend the thief, but Detective Miller received information that one Brown, a sport—"Peg-leg Brown," as he was known—was passing \$500 bills at Saratoga at the race track. He went on and took Brown into custody and brought him to Washington at the suggestion of Mr. John C. New, then the Assistant Treasurer of the United States. After he was brought on, Major Richards, my superior officer, desired Mr. McElfresh and myself to take an active interest in the working up of the case. We

secured sufficient evidence to show that Ottman and a small man named Halleck, who was a clerk, and Brown, were the active participants. I placed an officer named Schilling to watch Ottman's house and indicate it to Mr. McElfresh; and Mr. McDevitt to go to New York. We ascertained that Halleck was in New York; that he had gone on with Ottman. Mr. McElfresh went and arrested Halleck and brought him back. In the mean time Ottman had come to Washington, and had come to police headquarters, and was indignant at the arrest of Brown and procured bail and had a habeas corpus for him. Then we took Ottman into custody. I think the bond at first was \$100,000, and they were all placed in prison. Whilst Ottman was in the central guard-house, one of the colored messengers came to me and said that Ottman wanted him to go to Alexandria, and if he would go he would give him an order on the German-American bank for a package, and when he got it he wanted him to take the paper and destroy it, and then to plant the package in such a place that he could locate it; and, if he did so, he would reward him handsomely when he got out of his trouble; but if he did not he would kill him. I immediately gave the boy a candle and pen and paper, and he brought it upstairs and Ottman wrote the order. We went to trial. Then McElfresh discovered from an agent of Ottman's that he had been to Alexandria with another order, and we went over on the train next morning and when we got to the bank we got the package. When we opened it we found a pine board a little over an inch thick dug out in the center, with Ottman's name on it. We opened the box, and there were twenty-nine \$500 bills. Then Mr. Reed, the cashier, told us that Ottman had a bank account, some \$12,500; also that he had some stock in the Marine Railroad there, all of which we immediately put under attachment; taking the box, however, of \$500 bills because Mr. New had given the bank a guarantee of protection. We brought it to Washington and placed it in the property clerk's hands at headquarters. I also took from Ottman's person \$1,025. I then discovered further that "Peg leg Brown" had gone to Saratoga, and to Worcester, Mass., and to other points, and was buying drafts with \$500 bills less 10 per cent. payable to William H. Ottman, and sending them to Washington to him. The case came up for trial. Mr. Wells was the district attorney. Brown, though, sent for Major Richards one night at Aman's saloon and told him if he would make a witness of him he would expose the whole thing. Major Richards went to Governor Wells, but the governor said he had evidence enough to convict Brown and didn't want his statement. The major told me about that yesterday. The case came on for trial. The first trial was a hung jury, the second trial was a hung jury, and since that time I have never known anything about it until I saw the recent statements of a compromise or settlement of it.

Q. What was the result of your investigation as to whether the bills you found in the box at Alexandria were the identical bills that came from the Treasury?—A. The best evidence of that is the testimony of Mr. Whitney of the cash room; he can testify about the bills being of a certain series and within certain numbers. Halleck made a confession afterwards, and one of the things that helped largely to jeopardize the case and really to spoil it was that they took a detective officer after Halleck was convicted (Halleck, by the way, was convicted, and the cases were separated) they brought a detective officer down on some nominal charge, and put him in the cell with Halleck to extort another statement, and the result was that the people got somewhat indignant at that mode of procedure, and I told Governor Wells "You have spoiled your case by putting a man into prison to extort a confession from Hal-

leck when you have got plenty of evidence already." They granted Halleck a new trial. He testified to having gone over and told Ottman where this money was; that it was over in the water-closet of a saloon in the city, and Ottman went and got it. I asked Mr. Halleck how much of the money he ever received from Ottman. He said he received \$680, but he was to pay him \$8,000 of the money for his saloon and restaurant, and Ottman was going to give up the business.

Q. He had enough to retire on?—A. Enough to retire. I went to Worcester, Mass., and to Saratoga, and I brought down the cashiers of the bank. They both identified this man Brown as the man who came in and purchased drafts for \$500 bills and sent them on to Ottman. We also attached Ottman's saloon, his public house, horses, and everything. The horses, I believe, they disposed of because the case was delayed so long that it would cost more for livery than they were worth.

Q. Was there any doubt in the minds of those who investigated the matter that this was the money stolen from the Government?—A. There was no doubt in my mind. From the facts and circumstances there could be none. I never saw the money before. The only question was that this was an already broken package; if it had been a full package it would have had the slip indicating the numbers, as I understand; but Mr. Whitney can tell you as nearly as possible about the identity of the money, because he handled the package before it was stolen.

By Mr. FYAN:

Q. Was this property of Howgate's attached after the first or after the second arrest?—A. It was attached after the second arrest; because we could not attach it before that on account of his not being a fugitive or non-resident. When he discovered that there was a second warrant for fifty or sixty thousand dollars against him he became a fugitive and left the city and was away for some time, his bondsmen offering a reward for his apprehension.

Q. Then as I understand you when he was arrested this second time his bondsmen were released and he was put in jail?—A. Yes, sir.

Q. Is this property improved or unimproved?—A. It is mostly improved, I think.

Q. Where is this property located?—A. On Thirteenth street; they occupy one of the houses, the one where I arrested him.

Q. What other property has he?—A. He has brick houses scattered around through the city.

Q. Who receives the rent?—A. I think it goes into the hands of the marshals under these writs of attachment.

Q. Are his family the beneficiaries of those rents?—A. Not at all. I think it is only by the sufferance of the marshal that they are permitted to remain in the house.

Q. You say you were in the employ of the Government up to January, 1882?—A. Yes, sir.

Q. Did you communicate the information that you obtained to anybody but Mr. Cook?—A. No, sir; except incidentally to Mr. Newcome, who was a special agent of the Department of Justice.

Q. When your relations with the Government ceased were you employed by any of these parties that were supposed to be implicated in the star-route cases?—A. I rendered some service for Mr. A. B. Williams, an attorney.

Q. How long were you in his employ?—A. During, I think, most of the first trial—all of the first trial.

Q. Can you not give the dates?—A. I cannot; it was during the first trial.

Q. Whom did Mr. Williams represent?—A. I think he represented Mr. Stephen W. Dorsey at that time.

Q. Did he represent anybody else?—A. I do not know whether he did or not.

Q. Were you in the employ of any other of these star-route men or their attorneys?—A. No, sir.

Q. Were you ever present when there was an indictment or the draft of an indictment presented against Salisbury?—A. No, sir.

Q. Did you ever hear of such an occurrence?—A. No, sir.

Q. Were you ever present when there was an indictment against Parker presented?—A. No, sir.

Q. Were you ever in the employ of General McKibben?—A. No, sir.

Q. Do you know General McKibben?—A. I know him. Well, I have given information to General McKibben occasionally. I know him well.

Q. State what information you gave him.—A. Well, anything that I would pick up in the way of information.

Q. Information as to Salisbury?—A. Well, generally in connection with the star-route matter; I cannot exactly recollect at present.

Q. Did you ever receive \$1,000 on a compromise in relation to any of these cases?—A. No, sir.

Q. Did you ever receive any other sum of money?—A. No, sir. What was that question? You say did I ever receive any other sum of money?

Q. Yes.—A. In connection with what?

Q. These star-route investigations.—A. I received compensation for the services I rendered.

Q. From whom?—A. Mr. A. B. Williams.

Q. Did you ever receive any from General McKibben?—A. Not directly.

Q. Did you indirectly?—A. Well, I may have received a few dollars, but no very great amount.

Q. From whom?—A. Well, I may have received it from General McKibben, so far as that goes, I mean.

Q. Have you any knowledge of Mr. Gibson making a proposition to General McKibben or to anybody else that there would be no indictment found against Salisbury, provided they paid \$27,000 by the 15th, 16th, or 17th of June, 1882?—A. No, sir; I know nothing about that; I never heard about that.

Q. Do you know of anybody else making such a proposition?—A. I do not know of any such a proposition.

Q. Was any such proposition made in relation to the Parker case?—A. I never heard of any.

Q. Were you ever in the employ of any persons representing Parker on the route from Las Vegas to Vinita?—A. No, sir.

By the CHAIRMAN:

Q. Or the Kerens cases; do you know anything about them?—A. No, sir; I do not. I never saw Parker in my life, and do not think I ever saw Salisbury but once, and that was five or six years ago, and I never exchanged a word with him nor with Parker. I would not know Parker if he should come in the room.

By Mr. FYAN:

Q. The conversation I was talking about was with General McKibben

or any other agent of any of those parties? You don't know of any such proposition?—A. No, sir.

Q. Where was General McKibben's office?—A. On E street, just beyond Thirteenth street.

Q. Number 1305?—A. I think that is the number.

Q. And you never heard any such conversation?—A. No, sir.

Q. Since Mr. Bliss was on the stand, have you had any conversation with him?—A. I have not. I have never exchanged five words with Mr. Bliss in my life.

Q. You have not talked with any of these parties—Gibson or McKibben or others?—A. I have not seen Mr. Gibson for three or four weeks, and then only for a moment. I used to give Mr. McKibben information and he used to pay me for my trouble, as far as that goes. It was general information.

Q. Information in relation to what, these cases?—A. Yes, sir.

Q. Whom did you understand he represented?—A. I did not ask him.

Q. I do not suppose you asked him, but you may have understood?—A. Well, I supposed that he represented the Salisbury interest.

Q. Did you not understand that he was the agent of the Salisbury interest?—A. I have understood it, but not of my own knowledge. I have always understood that General Joe McKibben was the man that looked out for the Salisbury interests here and had done so for years.

By the CHAIRMAN:

Q. Whom did A.B. Williams represent?—A. Mr. Stephen W. Dorsey.

Q. Do you say you were employed by him during that time?—A. Yes, sir.

Q. What was the nature of the services that he desired you to render?—A. To get any information I could that would be of benefit to him and his client.

Q. Did you procure any information for them during your services for him?—A. Yes, sir. For instance, I would ascertain sometimes when witnesses would arrive from far off in the West, when the case was on trial; and I would acquaint him with the fact that so and so, men that I never knew, only by name, had arrived.

Q. Were you able to give them any information as to what those witnesses would testify to on the trial?—A. No, sir.

Q. Did you make any efforts to get that information?—A. I did, sir; and possibly I may have found out what one or two would say—some little information of this kind: Where a route had been expedited, and there was a lot of men that lived along the route, and that had come on to testify that the signatures on the recommendations of this expedition were not genuine, that they were forgeries—something of that kind.

Q. How long did your employment by Mr. Williams continue?—A. Only during the first trial. I had nothing to do with the second trial.

Q. Did you furnish Mr. Williams any papers relating to the prosecution of the cases?—A. No, sir; I had no papers to furnish.

Q. Did you know of any papers being furnished him which related to the prosecution of the cases?—A. No, sir.

Q. Did you ever hear it mentioned by Mr. Williams that he desired to get any papers that were used by the prosecution?—A. No, sir; he never inquired about that of me. He just employed me to get him such general information as he thought would be beneficial to his client, and I was then out of the Government service and being an independent officer felt that I had the right to do so.

Q. Did I understand you to say that you had any conversations with Colonel Cook, in whose service you had been formerly?—A. Oh, I used

to see Colonel Cook nearly every day, but not in regard to these matters. I have other matters with him pretty nearly every day.

Q. Relating to the prosecution of the star-route cases?—A. No, sir; other matters entirely.

Q. Relating to his own private business?—A. His private legal business. I did have one conversation with him about this investigation. He asked me if I recollected being in his office one day when the special agent of the Department of Justice, Mr. Woodward, was there, and was protesting against the arrest of Broht and Lilley, and I told him I was.

Q. Who was protesting?—A. Mr. Woodward was. Colonel Cook insisted that they should be taken in custody, as he thought he had a good case, and the warrants were prepared and were placed in the hands of the special agent (Henderson was the special agent and Thomas Trodden was his assistant), and I pointed the men out.

Q. Have you any objection to stating the amount of your compensation from Mr. Williams?—A. Well, I suppose Mr. Williams paid me for my services during that trial some four or five hundred dollars.

Q. Did you get your pay directly from him or ex-Senator Dorsey?—A. I got my pay from Mr. Williams.

Q. You treated with him entirely?—A. I treated with the attorney.

Q. Did you furnish him any written memoranda?—A. Oh, I may have furnished him at times a little list of names of witnesses that had arrived. They were coming in on almost every train from the West. As I would get the names I could not remember them, and I would make a memorandum and turn it over to him, and he would do as he pleased with them.

Q. During your conversation with Colonel Cook was there any mention made of any services you were rendering to Mr. Williams.—A. No, sir. Oh, I may incidently remarked to him that I was doing some business for Mr. Williams.

Q. He knew that Mr. Williams represented Mr. Dorsey?—A. Oh, yes, sir; he knew that.

Q. Did you see him frequently during that time?—A. Yes, sir; every day. I see him every day now.

Q. Did you ever see any papers there relating to those cases?—A. No, sir. Colonel Cook and Mr. Bliss and the other attorneys, when they would come, would go in the third story of Colonel Cook's office and lock the doors, and no one was permitted up there. At least I never was; I think Colonel Moore (being a good penman) assisted in copying some papers, but even that I do not know, because I never was up there.

Q. Did you say that you were also in the service of Mr. McKibben?—A. No, sir; I was not in his service, but I gave him information from time to time.

Q. Was that during the first or the second trial?—A. During the first. I had nothing to do with the second. If I wanted a few dollars at any time from Mr. McKibben I could get it.

Q. How much did he pay you?—A. I suppose he paid me altogether \$100; I was not in his service.

Q. Did you not hear it currently reported that the Salisburys were going to pay and were required to pay for immunity?—A. All I heard was a rumor that the Parker and Salisbury parties had made a settlement with the Government in some way through their attorney, but who that attorney was, or how the settlement was, I did not know.

Q. Did you get any of that information from Mr. McKibben?—A. No, sir. I just heard it rumored around; probably I heard Mr. Williams mention it.

Q. What did he say about it?—A. I don't think he said more than that that Salisbury matter or some matters had been settled with the Government in some way. It was in the course of general conversation.

Q. Did he say it was settled by paying anything?—A. He did not say that. I don't suppose he knew about that because he was not the attorney of the Salisburys or Parkers. Mr. McKibben was the attorney, and there is another gentleman who was the more immediate agent of the Salisburys, Mr. Ramage. He was the gentleman who used to go regularly to the Post-Office Department and collect what was due them and attend to the legal business.

By the CHAIRMAN:

Q. Who is Mr. Ramage?—A. He was formerly a clerk in the Post-Office Department. He is now the authorized agent of the Salisburys. I recognized him (although I had never any business transactions or dealings with him) as the immediate representative of the Salisbury faction.

Q. Did he ever say anything to you about having had to pay anything?—A. No, sir; I do not suppose we ever exchanged ten words in our lives. He may have asked me——

Q. Are you sure that you never saw any money paid?—A. I am quite sure.

Q. Do you not know of it?—A. I do not know of it. Mr. Gibson or Mr. McKibben or anybody else that had that business never imparted it to me, or any of their information; all they desired of me was whenever I obtained any information to impart it to them.

Q. Do you know Mr. Nathaniel Wilson, an attorney here?—A. Yes, sir; I know him.

Q. Was he an attorney for one of these parties?—A. No, sir; not to my knowledge. Judge Jere Wilson was one of the attorneys.

Q. I mean the other Mr. Wilson.—A. If he was I do not know it; there was quite an array of lawyers—Mr. McSweeney and Mr. Totten, and Mr. Chandler, of Missouri; A. B. Williams, Robert G. Ingersoll, and Judge Jere Wilson; I think there were about ten or eleven lawyers employed in the case, but I cannot remember them all now; this was at the first trial that I was rendering Mr. Williams assistance. In the second trial I took no part whatever.

I would say in regard to the Howgate matter that he had some land which I had discovered in Florida, and Colonel Cook immediately had transmitted a communication to the marshal of the district in Florida, and that land was also attached, and is under attachment at the present time.

WASHINGTON, *April* 10, 1884.

P. H. WOODWARD sworn and examined.

By the CHAIRMAN:

Question. Please state your age, residence, and occupation.—Answer. My age is 51; I consider my residence Windham, Conn., though I reside in Hartford; Windham is my home; my occupation at present is post-office inspector.

Q. How long have you been in the service of the United States as a post-office inspector?—A. I entered the service first in September, 1865, but left it in 1876. I re-entered the service in March, 1881, and am in it still.

Q. Have you held any other positions under the Government?—A. No, sir; I do not remember that I have ever held any other office of any kind.

Q. During your last employment as an inspector what has been the nature of your duties?—A. My duties have been principally in connection with the star-route business; but at odd intervals, at my own request and as a matter of rest and recreation, I have attended to more or less post-office business.

Q. Please go on now and state what service you have performed, and what information you have obtained in connection with star-route matters during the time that you have been engaged in investigating them.—A. I have prepared a statement which embodies in outline the matter called for by your question.

Q. Then you will please proceed to read that statement.—A. (Reading:) About the 10th of March, 1881, I received a telegram from General Joseph R. Hawley, saying that the Postmaster-General wished me to come to Washington. I met Mr. James in New York. He asked if I would accept a position as confidential agent of the Department, with the special view of looking first into the alleged star-route frauds. He desired that the investigation should be conducted in a way to develop the facts quietly without causing scandal. We traveled to Washington together; I was appointed inspector on the 14th, and the next day started on a hurried trip to Charleston, Columbia, and Raleigh.

About the 1st of April the investigation began. Within a day or two Hon. R. M. Daggett, of Nevada, brought in Isaac Jennings, late subcontractor on route No. 40,104, Mineral Park, Ariz., to Pioche, Nev. The history of the route was typical. By orders for additional trips and for expedition the pay was advanced, between January and August, 1879, from \$2,982, the contract price, to \$52,033.33. Jennings had undertaken to perform the service at \$28,000 per annum, subject to fines and deductions, leaving to the contractor a yearly net profit of \$24,033.33, without the investment of a penny on the line. In consequence of imperfect work not only was the entire allotment of the subcontractor for the fourth quarter of 1879 swept away, but the account showed an indebtedness from him of \$789.83. To this extent the nominal contractor, having absorbed the entire available pay, found himself still the creditor of the man who owned the stock and did the work. Coming thus early, these facts and figures made a profound impression.

During the initial stages of the investigation Mr. George E. Spencer, ex-Senator from Alabama, was quite active. For a number of years he had resided in Nevada, and in his travels on the frontiers had learned much about the star mail service. Several swindles he reported to Mr. James. Early in April he brought to me Mr. A. M. Gibson, who placed in my hands a lot of papers containing memoranda made from the records of the Department.

Mr. Spencer also put me in communication with Mr. Jerome J. Hinds, a mail contractor of long and varied experience. In 1878 Mr. Hinds was a partner in the contract on route No. 40,101, Santa Fé to Prescott, and knew the secrets of the first expedition. From his papers I evolved a statement to which he gave the sanction of his signature and oath. The firm afterwards dropped out when Mr. John A. Walsh became contractor. Mr. Hinds also furnished much miscellaneous information respecting frauds in the mail service.

The memoranda furnished by Mr. Gibson contained a table showing the manipulation of ninety-three routes. From this a revised table was

prepared which presented the great increase in cost in a way to carry instant conviction to the ordinary intelligence.

One Saturday evening I asked Mr. James to come to my rooms on Thirteenth street and examine the results already accomplished. He did so, and, amazed at the revelation, hurried me off to the White House. On looking over the figures, President Garfield shared in the astonishment of the Postmaster-General. At first, he could hardly credit their genuineness. In reply to a question from Mr. James respecting the policy to be pursued, he said in substance, "I have sworn to uphold the Constitution and the laws; I shall do my full duty. My instructions to you are, cut the ulcer out, no matter whom it hurts." With much impressiveness of manner he referred to some mysterious attempt to entrap him, the meaning of which was now first revealed to him. He added that, by no wisdom or foresight of his own, he had providentially escaped a great peril. Our silent curiosity was not gratified by further explanation.

At this interview I first learned that the investigation was likely to lead to criminal prosecutions. The decisive order was given by the Commander-in-Chief.

The next day Mr. James and I had a conference with the Attorney-General, and in the evening those officers called together upon the President. From this time the administration adopted a radical and aggressive policy. Soon after General Brady was asked to resign and J. L. French, his chief clerk, was removed. The appointment as successor to French of Mr. Henry D. Lyman, whose ability and character are equally admirable, and who acted for several weeks as Second Assistant Postmaster-General pending the confirmation of Mr. R. A. Elmer, gave us free access to the files and records in the Contract Office.

When recalled by Mr. James I had been out of the service a number of years, and having no expectation of re-entering it had given, during the interval, little attention to postal matters. As Mr. Gibson graciously placed at my disposal valuable transcripts, and intimated that he possessed a minute knowledge of the inner history of the frauds and the influence to press important witnesses into use, I suggested to him that it would be a satisfaction to me to have him employed to assist in the work. He replied that as he had recently severed his connection with the Sun he should like such an engagement, but did not think General Garfield would assent. I advocated his employment to Messrs. James and MacVeagh and also to the President. After a time Mr. MacVeagh directed me to telegraph to Mr. Gibson, then in New York, to return to Washington. He came; we went together to the Department of Justice, where the Attorney-General orally employed him. It was early settled, with the full concurrence of the Postmaster and Attorney Generals, that the implied obligation of immunity should be sacredly observed towards such minor offenders as elected to give full, frank, and truthful information to the Government. From the start upon this point I insisted upon a definite understanding. While my conversations on the subject were chiefly with Mr. James, I knew that Mr. MacVeagh approved of the policy.

In May, 1881, those officers, acting in concert, sent a number of picked inspectors to the new States and Territories to procure evidence in the regions where the frauds were committed. With unwearied zeal they worked late into the fall. In this connection, as deserving of special praise, let me mention the names of Messrs. A. G. Sharp, George L. Seybolt, J. E. Stuart, John B. Furay, G. W. Porter, Brewster Cameron, J. D. King, S. P. Child, R. B. McGaughey, and Edward E. Boyd.

One of the first persons to make important disclosures to the Government was Mr. George F. Brott. This gentleman had lost a large fortune in mercantile ventures at New Orleans, through the general failure of the crops in the years 1864-'65. In the county in Connecticut where I lived he had a circle of friends by whom he was held in high esteem. We had known each other slightly since 1867. He said he came in the interest of good government, and on account of the personal confidence he reposed in me, to communicate certain facts which in his judgment ought to be disclosed.

Mr. Brott gave information which led to the forced retirement from office of J. M. McGrew, Sixth Auditor, and of Fred B. Lilley, deputy Sixth Auditor. He turned over letters in the writing of Lilley, which established his guilt beyond question. Mr. Brott explained how, by the payment of a fee of one thousand dollars (\$1,000) to William Lilley, father of F. B. Lilley, he had secured a steamboat contract on Pearl River, Mississippi, at an annual compensation of \$7,500, after the ordinary recommendations had failed; and how, through F. B. Lilley, he had procured a steamboat contract from Donaldsonville to Red River Landing, at the yearly pay of \$44,518, the sum having been fixed considerably above the price originally asked by Brott, to furnish a fund for dividends. This service began about January 10, 1880, and in consequence of numerous disasters was imperfectly performed till March 1, 1880, when it was discontinued. Hence the expectations of profit were not realized.

Mr. Brott told how route No. 39103, from Santa Fé to Mesilla, N. Mex., James B. Price, contractor, was expedited, how much it cost, and how, as a part of the bargain, the same parties tried unsuccessfully to secure the establishment of the short route, or cut-off, from Las Vegas to Albuquerque.

In May, 1881, Mr. Gibson ardently urged the employment of William A. Cook in these cases, and invoked my aid. So far as I remember, his recommendations were oral, and I orally, but mildly, reinforced them.

Shortly after the engagement of Mr. Cook was publicly announced, I received a summons from President Garfield to be at the White House at a designated hour. Without much preface he said he had sent for me to ask if I could explain how the appointment came to be made; that the day before a judge of the Supreme Court had informed him that Cook was one of the most disreputable members of the Washington bar, and that the selection was a disgrace to the administration.

I attempted to justify the action of the Attorney-General on the ground that, as the investigation widened, it would be desirable to have in the cases a local lawyer who possessed an intimate and extensive knowledge, not only of the criminal class, but also of the darker elements that go to make up the life of the District. I added that the experience of post-office special agents was of little aid in fitting them to work successfully in the social strata referred to, as they traced crime to its source, not by communication with the guilty, but by purely intellectual processes. The President seemed partially satisfied.

A few days later, Mr. James invited me in the forenoon to ride with him to the White House, whither he was called in the routine of business. We found fifteen or twenty people in the Cabinet room. Before we left, the President took me one side and asked if I did not regard as confidential the conversation above referred to. I replied that I did. "Why, then," he continued, with some severity, "did you report it to Mr. Cook?" I answered him that I had never mentioned the subject to any one. He then said that Mr. Cook had written him a letter,

making special reference to the imputations of a Supreme Court judge, and defending his own character. I assured Mr. Garfield that the fact had been disclosed through some other channel.

The above letter ought to be among the papers of the late President.

Early in June, 1881, Montford C. Rerdell, the confidential clerk of Stephen W. Dorsey, through Hon. Powell Clayton, ex-United States Senator from Arkansas, tentatively offered himself as a Government witness. By prearrangement he came to the Arlington Hotel, where he told his story in the presence of Messrs. James, Clayton, and myself. Its substance may be condensed into a few words.

Rerdell was the clerk and stenographer of Stephen W. Dorsey. While that gentleman was still in the United States Senate, Rerdell, with others, worked nearly all of one night in the house of Dorsey, completing a large number of proposals for carrying the mails. These were made in the names of J. R. Miner, John M. Peck, J. W. Dorsey, and A. E. Boone, the last of whom was afterwards frozen out to make room for H. M. Vaile. At the close of his Senatorial term, Stephen W. Dorsey made no further concealment of his interest in the mail business. Rerdell went West to place service on a number of routes and to procure the needful data for working it up to an altitude of satisfactory profits. On some, he himself became nominal subcontractor.

A set of mail books for Dorsey were kept by Rerdell. They show payments of over \$37,000 to Thomas J. Brady, Second Assistant Postmaster-General, who is designated as "Wm. Smith"; also of \$600 to William H. Turner, contract clerk, designated as "Sam'l Jones." Brady received 33½ per cent. as his share of the increased allowances. Rerdell exhibited a memorandum, alleged to be in the writing of Stephen W. Dorsey, charging to the firm the following donations of mining stock:

James N. Tyner, 1,500 shares.....	\$2,000
A. M. Gibson, 1,500 shares	2,000
William H. Turner, 1,200 shares	1,500

In one instance, within the knowledge of Rerdell, Dorsey paid \$2,000 on the bonds of failing bidders to secure a settlement. Of this sum \$1,000 reached the public Treasury, and \$1,000 the pockets of the then Sixth Auditor and his deputy.

At the time of the Congressional investigation into star-route matters Rerdell feigned sickness for ten days in order to secure time for the preparation of a false set of books. He drew a pencil mark around the items to be hidden under a new disguise, the charges to Smith and Jones being now carried to profit and loss.

Rerdell also exhibited two balance-sheets purporting to be correct transcripts from the genuine books of Dorsey, and from the amended books prepared during his pretended sickness.

Mr. James advised Rerdell to seek, without unnecessary delay, Attorney-General MacVeagh, who was then out of town, but was expected back the following Friday. I told Rerdell to be at the house of that gentleman on Friday evening unless otherwise directed. We happened to meet on the door-steps about 8 p. m. Rerdell had under his arm a package, which proved to be the letter-press books of Stephen W. Dorsey. From these he read a number of missives directed to the Wilcoxes, in Oregon, and to other persons. He repeated in substance the story told at the Arlington. He said the original account-book, containing the criminating entries to the debit of Smith and Jones, was in New York, and he volunteered to go thither and procure it.

I saw but little more of Rerdell till long afterwards. He had two or three further interviews with the Attorney-General, but soon yielded to the importunities of his old associates. At that time he possessed valuable papers, and would have made an important witness. I shall never forgive myself that undue deference to official station deterred me from cleaving to this man till the last scrap of evidence had been wrung from him. The hand of one could have held him firmly, but from our joint grasp he was easily fished away.

A week or two later George E. Spencer, on returning from New York City, reported to us that on Sunday, June 12, about 1 o'clock p. m., Stephen W. Dorsey called upon him at the Everett House, entering his room unannounced and in a state of terrible demoralization. He smoked incessantly and drank frequently. He said his clerk, Rerdell, had "squealed," betrayed him, and shown his papers to the Government. He begged Spencer to help him. Hon. S. B. Elkins was present a part of the time, and to him Dorsey made the most abject apologies for previous wrongs.

Mr. Spencer added, that on Thursday evening, the 16th, Dorsey came again to the Everett House, but now in a state of high exhilaration, having become satisfied in the mean time that Rerdell had not "squealed."

Before your committee Mr. Cook testified that he had several private interviews with General Garfield, by whom he was instructed to communicate directly with himself on star-route matters, thus, in a degree, ignoring the Attorney-General.

From events in which I bore a share I know with the assurance of certainty that these representations are false. Mr. Cook was introduced to General Garfield by Postmaster-General James in my presence on the Wednesday evening preceding the assassination. The event was pre-arranged. Mr. Cook called at the Arlington in a carriage at twilight. Thence we three drove to the White House. We were ushered into one of the lower rooms. Shortly after the President entered. Mr. Cook was presented to him by Mr. James. They met each other as persons hitherto unacquainted. I cannot believe that the Executive of this Nation arranged a job with a man whom a Supreme Court judge had only a few weeks before denounced to him as disreputable, for the purpose of deceiving an honored member of his own official family.

On that occasion other topics were broached more pregnant with significance than comments on the progress of the cases, or sensational warnings in reference to dangers threatening the President and two of his Cabinet.

Mr. Cook insisted that immunity should be granted to Stephen W. Dorsey, on account of his great services to the Republican party. In answer, I modestly suggested that penal laws and penitentiaries were not devised for the exclusive benefit of Democrats.

To illustrate the total depravity of the star-routers, Mr. Cook told the President that General Brady had already attempted to corrupt even him; that he had been invited to meet a representative of that gentleman at the Portland; that, fearing a trap, he declined to go thither, but did receive the representative at his own office, having first prudently concealed a detective under the bed to overhear the conversation! I scrutinized the face of Mr. Garfield to discover the impression made upon his mind by these strange outpourings, but his impassive features gave no response.

In view of the fact, however, that in a community where he had lived for many years, and where his character was minutely known, the vir-

tue of Mr. Cook had so soon been thus rudely tempted, one could not help asking mentally how long it would be able to resist the shock.

General Swaim, the close personal friend of Mr. Garfield, thoroughly familiar with the inner history of his brief administration, remembers the indignation of the President over the appointment of Mr. Cook, and my summons to the White House in quest of an explanation. He remembers the letter called forth in answer to the statements of a Supreme Court judge, and the prudential reasons which withheld the President from ordering the summary dismissal of Mr. Cook on account of his moral unfitness for the trust. He also remembers our call at the White House the Wednesday evening before the assassination. To the best of his knowledge this was the only call made there by Mr. Cook between March 4 and July 2.

About the middle of August, 1881, Postmaster-General James sent me to Philadelphia to interview Thomas A. McDevitt, a nominal contractor for principals who held a large amount of expedited service. He was absent from the city, but on the 18th he called upon me at my rooms in Washington. McDevitt had already been indicted in Philadelphia for conspiracy to defraud the Government by fraudulent bidding on certain routes in Texas—a matter quite distinct from those on which his evidence was chiefly sought.

His statements made on the first day of our acquaintance were summarily rejected by the Attorney-General. On the 20th he returned. I handed him the affidavit already made, told him I had no copy, and that as the disclosures were unsatisfactory to Mr. MacVeagh, I should make no use of them, or, if he chose to trust me, I would listen to anything further he might have to say. After looking me steadily in the eye for a moment he replied, "I will trust you and tell all I know."

In the affidavits prepared that day, he explained how a farm and quarry near Richmond, Va., were conveyed, at a nominal consideration of \$76,000, to James Kee and W. H. Crawford, of Philadelphia, for the express purpose of qualifying them to become sureties on the proposals to be made by him; how the property was reconveyed, to the original owner after the contract term began; how he himself, with proposals resting on such security, obtained a number of routes in Dakota and Montana; how petitions for increase and expedition were gotten up and forwarded to him without compensation by one Ezra I. Traverse, of Nevada; how he himself, with no personal knowledge of the matters involved, made the affidavits respecting stock and carriers intended to measure the cost of expedition; how, through a stranger, he secured from General Brady orders which vastly increased the cost of the service; and how, after this preliminary work, he sold his hypothetical interest in the contracts, through Col. Joseph C. McKibben, to the Salisbury combination for \$2,500 and then disappeared from the scene, as he supposed, forever. He also explained his part in the transactions upon which the Philadelphia indictment rested. McDevitt added that he would freely communicate any further information within his knowledge, whenever called upon by the Government. Upon reading the second affidavit, Mr. MacVeagh seemed to be satisfied.

In response to a call from the Attorney-General, Mr. Gibson wrote a voluminous report, giving a partial history of the Dorsey mail transactions. He also prepared a history of route No. 40101, which was made the basis of the information.

Meanwhile, Inspectors Tidball and Shallcross were engaged in developing the methods by which sundry contractors habitually imposed fraudulent and worthless bonds on the Department. Their report to

the Postmaster-General was subsequently printed and transmitted to the President.

When comfortably seated in his new chair Mr. Cook proceeded to employ a number of local detectives to report to him personally. The discoveries resulting from their joint labors were not added to the common stock of information, and, so far as I am aware, not a ray of light emanating from either that luminary or his satellites ever disclosed a scrap of evidence for the benefit of the prosecution.

As will be seen, our efforts during the spring and summer of 1881 were of a rather desultory character. In Washington a few witnesses were exposing parts of the sores which had eaten deeply into the public morals and the public purse. Inspectors on the frontier were doing excellent work. Tasks of great severity they performed with cheerfulness, intelligence, and fidelity. As the reports came in the new administration of the Post-Office Department applied the pruning knife so fearlessly and vigorously to existing abuses that in a few months the deficiency in the postal revenues was practically extinguished.

Meanwhile the newspapers were mysteriously inspired to warn the star-route contractors of the speedy destruction in store for them at the hands of the Government. As the sultry summer wore away I became more and more painfully conscious that the condition of our magazines was far from justifying this tone of exultation. Except as heretofore described our armories were practically bare.

Toward the close of September, 1881, I began systematically to prepare the cases for trial. By means of the files and other departmental papers, I was enabled to dig out the special frauds practiced on each route, and largely to demonstrate the methods pursued by the different rings. To the evidence thus developed, I added an abstract of the proofs furnished by the traveling inspectors, together with such oral testimony bearing on each case as from time to time I was able to secure from parties having personal knowledge of the inside affairs of the various combinations. The papers so prepared gave a brief but comprehensive history of each route by itself. In this way, I examined the exceptionally bad service of the Dorseys, and, to a less extent, of the Parkers, James B. Price, Root and Kerns, the Salisburys, and others. This work I continued till called into court in June, 1882, when, with a few slight exceptions, it was permanently suspended. The papers were placed at the disposal of Col. George Bliss, special assistant United States attorney.

In November, 1881, Colonel Bliss prepared to initiate criminal proceedings against Fred. B. Lilley. Mr. Geo. F. Brott, the essential witness in the case, had some time before gone to Minnesota on business. Just as an inspector was about to be sent thither with a subpœna, I learned that Mr. Brott had started eastward. He came to Washington, and, after a short delay, proceeded to Philadelphia. With the knowledge and approval of Colonel Bliss, I called upon Mrs. Brott, and at my request she telegraphed to her husband to return immediately to the city, with the view of appearing before the grand jury.

About the the same time Fred. B. Lilley was brought before United States commissioner, Charles S. Bundy, for a preliminary hearing. William A. Cook appeared for the Government. After putting in the formal parts of the proof and identifying the handwriting of the defendant, Mr. Cook placed me upon the stand to establish the essential points of the case by hearsay testimony. As this was promptly and properly ruled out the prosecution broke down ignominiously, the commissioner refusing to grant even a continuance. We left the room with our pa-

pers amid the derisive laughter of the crowd which had gathered there.

Mr. Cook read before this committee an extract from the Evening Star to prove that he is the leading criminal lawyer of the city. He is not a chicken in years or experience. Why, then, did he thus engineer this lamentable fiasco?

William Lilley, the father of Frederick B., told me often that William A. Cook, for \$1,000 guaranteed immunity to his son, and that on the very day when we appeared before Commissioner Bundy, \$250 of the fee, through the underground channels employed for the conduct of the business, had already found its way into the pocket of Cook.

From the quarters of Commissioner Bundy I accompanied Mr. Cook to his office, where, against my indignant protests, he proceeded to subpoena Mrs. Brott to appear before the grand jury as a witness against her husband. This was the last official interview I ever had with the man.

At this juncture, after explaining the outlines of the case to the grand jury, I started for Connecticut on the afternoon of Thanksgiving day, for the purpose of accompanying my family hither. On my return I was amazed to learn that Mr. Brott, though he came back to the city for the purpose under the circumstances above described, was not only not permitted to testify before the grand jury, but was himself indicted.

I at once denounced the proceeding to Colonel Bliss, who, in the part taken by him, had, as I believe, been deceived by his associates, Cook and Gibson. I told him if this was the way the prosecutions were to be conducted I should neither seek nor accept further evidence from implicated persons; that while many doubtless would be willing to assist on that line, there was not money enough in the vaults of the United States Treasury to bribe me to win the confidence of a man to betray it.

Before this committee Mr. Cook reproached the Department of Justice for permitting the indictments against George F. Brott to slumber. He demands that the Government shall butcher in cold blood a witness who voluntarily imparted very important facts, against whom there is not a scintilla of evidence, except such as he himself furnished, who, trusting to our honor and good faith, deprived himself of all defense, and placed himself at our mercy. It should be remembered, too, that the destruction of Brott would remove the essential witness against F. B. Lilley, whom Cook prosecuted with suspicious feebleness before Commissioner Bundy.

From this time onward I have never communicated information that might be used to the injury of the persons who gave it, except to the Hon. Richard T. Merrick, who, a few months later, was employed to take charge of the cases. Under his leadership the most scrupulous good faith has, in all cases, been sacredly observed. In the close and confidential relations that have subsisted between us I long ago learned to rely with implicit trust on his judgment, his integrity, and his honor.

In August or September, 1881, the attitude of Mr. A. M. Gibson towards certain combinations, notably the Salisburys, underwent a sudden and remarkable change. Previously he had been the zealous advocate of sweeping reductions of service. All at once he discovered that the Department was going too fast and too far. He expostulated with Mr. Lyman, then chief clerk of the contract office, and now Second Assistant Postmaster-General, against the continuance of a policy which hitherto he had earnestly approved. As the new condition of things developed both General Elmer and Mr. Lyman began to suspect him of treachery. An incident illustrates the feeling. One day Colonel Inger-

soll brought some matter of business in behalf of his client, Mr. Salisbury, to the attention of General Elmer, who jocosely replied, "Yes; your associate counsel, Mr. Gibson, took the same view." By those faithful officers I was gently warned, but my eyes were not yet opened.

I must here introduce more fully William Lilley, whose name has several times entered into this narrative. He died last year, aged over seventy years. In the spring of 1881 I made his acquaintance through ex-Senator George E. Spencer. When his son, Fred. B. Lilley, was ejected from office, further intercourse between the father and myself ceased for a number of months. In the fall it was resumed.

William Lilley had an extensive experience in crooked affairs, and his knowledge was much wider than his experience. As an attorney he prosecuted claims before the officers of the Post-Office Department during the Brady-McGrew regime, received many favors from the presiding authorities, and became familiar with the true inwardness of many dishonest transactions.

Whatever the motive which induced him to seek a renewal of our acquaintance, I think he soon began to entertain a sincere regard for me, and in a qualified degree, to wish me success. Little by little he dropped valuable bits of information. After many hints he finally told me that of his own knowledge Cook and Gibson were selling out the Government, that a burglarious seizure of the papers had been discussed, and that when the catastrophe came it would be so contrived as to ruin me, if possible.

I still listened with incredulity but walked with increasing circumspection. Notwithstanding the apparent sincerity of Mr. Lilley, and the different roads by which at different times he approached the central and vital allegation, I conjectured that this might be part of a scheme to sow dissensions in the camp of the prosecutors. But a crisis was swiftly approaching.

Toward the close of November, 1881, I first learned, after the document was in actual print, that Mr. Gibson had made an elaborate report on "The Star Mail Service," and addressed it to my chief, the Postmaster-General, to whom he bore no official relations, serving as he did in the Department of Justice. Here was another surprise. I never knew that such a report was contemplated till I saw it in type. Although we occupied contiguous rooms, the fact was successfully concealed from me.

Through my unwise and ill-stared efforts Mr. Gibson had been employed to assist in the investigation. From the day the fact was announced I had been compelled to defend his reputation, which, too late, I found to be unsavory. Still, in the face of increasing difficulties, I treated him as one associate should treat another. My reward had come. While I was absorbed in preparing the evidence to be presented to a petit jury, he was equally absorbed in preparing a screed to glorify himself.

I at once told the Postmaster-General that with my consent the report could not be addressed to him. Notwithstanding the dishonor of its birth, I expressed a willingness, provided the address was changed to the Attorney-General, that any use should be made of it which those two Cabinet officers might deem best.

At the time of this discovery Mr. Gibson was in New York. On his return shortly afterwards Mr. James sent for me, and, in the presence of Gibson, urged forgiveness and forgetfulness. My reasons for declining to acquiesce were condensed into a single remark, which I will not repeat, for it hardly befits the decorum of a written statement. A few

days later Mr. James again summoned me to his room and in the same presence renewed his efforts. I plainly told them both that all further co-operative relations between Mr. Gibson and myself were at an end.

As the report was not intended for use in the court-room it was available, first, to convince the public that great frauds had been committed in the star service, and second, to advertise the writer. The first reason for its production did not exist, for the country months before accepted the existence of the frauds, and was then demanding that we should furnish the legal evidence to substantiate our charges. As the contract term began July 1, 1878, and as the most flagrant orders for expedition were compressed into the next twelve or fifteen months, at this very time the statute of limitations was rapidly barring the overt acts. The crisis called for hard and earnest work in the preparation of the evidence, not for the issuance of self-laudatory manifestoes. So heavily did the pressure weigh upon me that I neglected the ordinary duties of life in the fight to save the statute.

In December, 1881, Wm. Lilley informed me that he had learned some time before that A. M. Gibson had become the paid agent of the contractors on route No. 40116, from Phoenix to Prescott, Ariz. I at once examined the papers on that route and found the following extraordinary document over the signature of A. M. Gibson:

40116.

There is no proof of fraud in this case. There are *suspicious* circumstances, such as the advertisement of the route as 140 miles long when in reality it is only 108 miles, and the bid of \$680, and the subsequent raising to \$32,640; but, in the first instance, the advertisement of the distance as greater than it really is, the contractor cannot be held responsible for the laches of the Post-Office Department; and, in the second place, while the enormous increase of price is suspicious, still the Department cannot base its action upon mere suspicion. There must be *absolute* proof of fraud either in obtaining the increase or in performing the service after the increase has been obtained. In this case there is, as remarked above, no proof whatever of fraud. The service is, according to all the evidence, capitally performed, the contractor employing first-class stock and equipments, and making faster time by several hours than the terms of his contract call for. The necessity of the present schedule time is admitted by all who speak or testify in regard to this route. There have been large reductions already made in the service leading to and from Prescott, and I do not believe the Department would be justified either by the evidence or public policy in making any change in this route. Inspector Sharpe does not recommend that the old schedule be restored, but, on the contrary, says it would be unwise to do so. The schedule cannot legally be changed unless proof of fraud is clear and positive. There can be no half-way work—it must be either left where it is or put back to the original schedule. The latter, in my judgment, as before stated, would be illegal, and of course unwise public policy.

A. M. GIBSON,
Special Counsel.

“There is,” says this “special counsel,” “no proof of fraud in this case.” If this statement is correct, there is no proof of fraud in any case arising under the administration of General Brady. In fact, this is one of the very worst routes of the lot, not more than two or three being able to compete with it in pre-eminence of badness. It was let, one trip a week, at \$680 per annum. Within nine months, without competition, the trips were increased to seven, the speed expedited twice, and the annual pay advanced to \$32,640.32, or forty-eight fold. From October, 1878, to June, 1881, Prescott had a daily supply, except Sunday, from Phoenix via Wickenburg also. The affidavit intended to measure the cost of the first expedition involved an absolute physical impossibility, palpable to the most ordinary intelligence. The fact that such an oath

was permitted to enter into the transactions of the Department reveals the recklessness with which the business was conducted.

For the present term the route was let at free competition from Prescott, via Phoenix, to Maricopa, 32 miles longer, on a faster schedule, seven times a week, for \$9,500 per annum; or, pro rating for the old distance, at \$7,265 per annum.

If there was no proof of fraud in this case, it was the duty of the investigators to confess to their superiors that they had raised a clamor about nothing; to close their rooms, to seek other work, and to save to the Government the cost of pursuing a useless inquiry further.

The presence of Mr. Gibson had become unbearable. No one could foresee what might be the next manifestation of his apparently innate and incurable depravity. Having reflected maturely on the subject and notified Mr. James and Colonel Bliss of my purpose, I suddenly changed the lock-combination on our two iron safes. The following day I caused a full inventory to be made of the contents, and about the same time partially reconstructed the clerical force working under my direction. Mr. Gibson tacitly confessed the justice of the proceeding by never asking of me any explanation, or making any complaint, though he continued for two or three weeks to come to our rooms.

In February, 1882, I was called repeatedly before the grand jury, of which Mr. Wilson was foreman. It was a highly intelligent and painstaking body. They found the indictments against Dorsey, Brady, and others, in which Montford C. Rerdell and J. L. Sanderson were described by initials only.

On the 29th of March, 1882, Hon. E. John Ellis and Mr. George F. Brott called together at my office. Mr. Ellis produced a copy of such parts as related to him of a memorandum known as the "Brott statement," made in the spring of 1881. (The subject has lately been investigated by the House Committee on the Post-Office and Post-Roads.) The original was locked up in one of our safes. By this event I was first apprised that copies of some, at least, of our papers had found their way into hands unauthorized to hold them.

A few days later William Lilley, in a highly excited state of mind, brought in a verbatim extract from the same document, narrating one or more incidents in his career. He complained that I was collecting evidence against him, notwithstanding the value of the information he was from time to time giving me. I replied that the original was penned long before the Government came under any obligations to him, and that such publicity as had been given it was due not to my action, but to treachery. He said he obtained it from General Brady, who had a large stack of our papers.

I asked Mr. Lilley to find out where General Brady procured them. After visiting that gentleman, Mr. Lilley reported that while General Brady made no direct admission, the conversation proceeded on the assumption that he had obtained them from William A. Cook, through his partner, Cole.

A copy of the Brott statement was sent to Mr. Cook November 1, 1881.

Mr. Cook testified before the Post-Office Committee and reiterated in his evidence before this committee:

I never had any papers in my possession, nor saw any papers, nor heard any testimony from Mr. Woodward or anybody else, officially or unofficially, directly or indirectly, implicating Mr. Ellis in the star-route frauds, nor reflecting against him.

He also testified here that he prepared the indictments against Mr. George F. Brott and Fred. B. Lilley, and afterwards returned to the

Post-Office Department the papers upon which they were based. An examination of those papers shows that the parts relating to Mr. Ellis, though entirely irrelevant, were embraced by the clerk who transcribed them for the common use of Messrs. Bliss and Cook in their work before the grand jury. If Cook had anything whatever to do with a job which he claims to have done with no aid from Colonel Bliss, he must have read the reflections upon Mr. Ellis. This incidental fact is mentioned simply to show that he erred in his testimony.

Mr. Cameron and I found in the same package the original drafts of the Brott-Lilley indictments, in the writing, not of William A. Cook, but of Col. George Bliss. The interlineations and marginal notes indicate carefulness of preparation. Thus, upon a second and vital point connected with this bundle of papers, both Cook and Gibson, though swearing with great confidence, are found to have been mistaken.

The New York Sun of February 23, 1884, prints extracts not only from the statements of Brott and Rerdell, but also from "another document on file," tending to show that Hon. J. P. Kidder, late Delegate from Dakota Territory, was unwarrantably active in aiding John R. Miner to secure increase of service. The statement respecting Mr. Kidder seemed unfamiliar to me.

On examination, I found it was written by Mr. H. J. Finley, a clerk who assisted in the early part of the investigation. It is taken with slight variations from an abstract of seventeen pages, setting forth the substance of the Departmental files on route No. 35051, Bismarck, Dak., to Tongue River.

To make my meaning intelligible, I must explain our early method of procedure. As already stated, I began late in September, 1881, to prepare as complete a history of the routes, each by itself, as the data on hand would permit. On two of them, Nos. 35051 and 38134, Mr. Finley made up an abstract from the files, while I prepared the summary of the evidence furnished by the inspectors. On routes Nos. 44154 and 44155 he also transcribed the substance of the files, but on these my abstracts embraced the entire history.

Impressions of my work, each route by itself, are interspersed through my letter-press books. In the preparation of the cases Mr. Wm. A. Cook called for copies of the abstracts. These were made, some by Maj. Jas. H. Reeves, some by Chas P. Blackmar, and some by A. M. Gould. No other clerk was employed on this branch of the work. An impression of each copy so made was taken in a letter-press book.

On October 15, 1881, copies of our abstracts on five routes were sent to Mr. Cook, and on November 1 eleven more were sent to him, together with copies of the statement of M. C. Rerdell and Geo. F. Brott.

The matter reflecting upon Mr. Kidder, and printed in the Sun of February 23, 1884, went to Mr. Cook October 15, 1881. It was in the writing of Major Reeves, and is the only copy that ever left our office. Except this specific one, I defy the world to produce a copy of that abstract in the writing of either Reeves, Blackmar, or Gould, the only clerks employed in our rooms in making them.

The following list is from a memorandum made at the time:

(Sent Col. W. A. Cook.)

- Oct. 15. 35051, Bismarck to Fort Keogh. Two parts.
 38113, Rawlins to White River, Colo.
 38134, Pueblo to Rosita, Colo. Two parts.
 38135, St. Charles to Greenhorn, Colo.
 38140, Trinidad to Madison, Colo.

(Routes on which Dorsey was allowed additional time to begin service.—H. J. F.)

Nov. 1. 44155, The Dalles to Baker City, Oreg. Two parts.
 44154, The Dalles to Lake View, Oreg. Two parts.
 44160, Canyon City to Fort McDermott, Oreg.
 44140, Eugene City to Bridge Creek, Oreg.
 35015, Vermillion to Sioux Falls, Dak.

(Statements of M. C. Rerdell.)

38150, Saguache to Lake City.
 34124, Niobrara to Pierce, Neb.
 38146, Garland to Ouray, Colo.

(Statements of Geo. F. Brott.)

34149, Kearney to Kent.
 38152, Ouray to Los Pinos.
 44119, Toquerville to Adairville.

December 27, 1881, after the change in the lock-combinations of our safes, Mr. Cook sent me the following letter:

[William A. Cook, attorney at law, Washington, D. C., lock-box No. 71.]

DECEMBER 27, 1881.

SIR: 1. Allow me to call attention to the fact that up to this time I have only received a portion of the papers in what is called the "Dorsey cases." I am embarrassed in my investigation of these cases by the delay in supplying me with copies of these papers or abstracts, as I have heretofore requested. I presume that furnishing me with these papers will not interfere with the investigations of my associate, Colonel Bliss.

2. I have repeatedly requested that a copy of the Tidball report in relation to bonds of contractors should be furnished me, but up to this time I have not received it. As in the Dorsey cases so in this, the delay is embarrassing to me. You may remember that Mr. Gould, who was temporarily detailed for service with me, was placed in the rooms set aside for the investigation of the star-route cases so that a copy of the report and accompanying papers might be speedily furnished me. I have to request that this be done with as little delay as possible.

3. It is important that a re-examination of papers in case 40101 should be made, as I have received instructions in relation to it. Mr. A. M. Gibson some time ago obtained the copies of the papers belonging to me in this case to aid him in making some report, and they have not been returned. He has informed me that he is unable to do so because they are in your custody. These constitute no part of the files of the Post-Office Department. Will you please return them immediately to me, so that I may proceed with the required examination of the case?

Very respectfully, yours,

WILLIAM A. COOK,
Special Assistant Attorney United States.

P. HENRY WOODWARD, Esq.,
Post-Office Inspector.

By Mr. Blackmar, I sent the history of route No. 40101 to the office of Mr. Cook, with instructions to bring the package back if that person was not in. Mr. Blackmar returned with the papers. I did not repeat the experiment. Upon consultation with Colonel Bliss, no more copies were allowed to go to him.

In May, 1882, witnesses went again before the grand jury in the Dorsey case, and a new indictment was found. The first trial began the first of June, and was continued into September. As it progressed, Judge Wylie called for proof of conspiracy, and a few days later called again. Hon. Richard T. Merrick, special Assistant Attorney-General, from the recency of his employment, was largely introduced to the

facts as developed from the witness-box. Becoming greatly disquieted, he told me that bricks were abundant but mortar scarce; that he had the materials for the walls of the edifice, but little cement to bind them together; that evidence of fraud was complete in the records, but direct testimony of motive and combination was needed, and that the need must be met by oral testimony from a person possessing inside knowledge.

In this emergency Mr. John A. Walsh seemed to be the most available resource, if he could be obtained as a witness. As mail contractor and as banker loaning money to other contractors and to General Brady he had acquired a large stock of information respecting the methods of the Department, as then administered. Many facts could be substantiated by documents in his possession.

Since the spring of 1881 I had met Mr. Walsh often. Meanwhile he had moved from Washington to New York City. However, he had a way of turning up here in crises of despondency, when he would cheer us with hopeful words and fresh installments of evidence.

At this juncture Mr. Walsh reappeared in the city and came to see me as usual. An interview was arranged between him and Mr. Merrick. As a result of the conference he took the stand and testified to the custom of General Brady in granting increases and expeditions.

The record of the first trial is spread through three volumes.

After the verdict and a day or two of imprisonment Montfort C. Rerdell offered himself to the Government as a witness. Counsel directed me to listen to his story. Owing to the obstructions in the way of meeting a man so circumstanced in Washington, I directed him to report at Hartford, Conn., later in the season. In November he came.

Having impressed upon him the supreme importance of absolute truthfulness and accuracy, I spent over a week in the preparation of his statement; it covered sixty-six pages, and plowed through the center of Stephen W. Dorsey's career in the mail business. With the papers deliverable in June, 1881, and with the character Rerdell then bore, the facts communicated would have made his testimony invaluable. Notwithstanding the known existence of one recantation of the disclosures of June, 1881, the Government accepted him. While he was on the stand we were confronted with a second recantation, of the existence of which we had had no intimation. The accidents and backslidings attendant on his conversion seriously impaired the credibility of what was doubtless a correct story.

The second trial began December 7, 1882. Having gone to Connecticut to spend the holidays, I was summoned back to Washington a day or two after Christmas. On my return I was informed that Mr. James B. Price, of Missouri, desired to testify on behalf of the Government, and that a controversy had arisen respecting the propriety of accepting him. By common consent I was directed to interview Mr. Price to learn the extent of his knowledge and of his willingness to communicate it.

We spent two days in preparing a statement of facts. The affidavit was placed in my hands in trust, to be delivered to the prosecution only on condition of the acceptance of Price as a witness. December 31, I read it to the Attorney-General, and in answer to interrogations repeated the evidence developed by Mr. Walsh. Mr. Brewster went over the case carefully, noting the interdependence of the testimony of the two.

The acceptance of Price would involve the arraignment of ex-Senator

William P. Kellogg, of Louisiana. Mr. Brewster, while fully appreciating the gravity of the situation, showed no hesitation, after reviewing the facts, in coming to a decision. He took the ground that his official oath required him to administer the laws impartially; that so long as the responsibility for their enforcement remained with him, he should recognize no distinctions of party, persons, or pecuniary condition; that where a man, honored by the people with a high and sacred trust, stooped to take bribes, the crime should be followed by the more certain and speedy retribution. He ended by directing me to notify counsel that he accepted Mr. Price as a witness for the Government.

Early in 1882, Thomas A. McDevitt notified me that he was about to be forced to trial on the Philadelphia indictments. Believing that the implied faith of the Government could not and would not be broken, I wrote him to employ no lawyer, to go to no expense, and to rest in peace. However, the case was pressed. The Attorney-General refused to interfere. Feeling that my own honor was involved in the protection of a man who, at the invitation of the Government, had through me placed himself at its mercy, I appealed to District Attorney Valentine. This act of intervention, though severely censured, led to a postponement of the case.

In the fall of 1882, in the teeth of my remonstrances, McDevitt was tried, convicted, and sentenced to the penitentiary for one year.

At my solicitation, Messrs. Merrick, Bliss, and Ker recommended his pardon. Ex-Postmaster-General James placed on file a manful letter, assuming his full share of responsibility for the overtures which induced McDevitt to testify in August, 1881. Pained by the failure of efforts dictated solely by a sense of duty, on the 8th of February, 1883, I addressed a communication to his Excellency, the President, in which, after reciting the facts, I closed as follows:

In collecting the star-route evidence, I have performed an obscure but laborious work. At every step I have aimed to be true and faithful, not only to the Government, but also to the offenders who, through me, have been invited to trust that Government. I should never have listened to the story of McDevitt, had I not been previously assured by the high officials who directed my actions that he would be saved from harm, provided he acted with frankness and truthfulness. This, in my judgment, he did. That the case in which he might have been an invaluable witness was not brought to the front, arose from no default of his.

In the trial and conviction of McDevitt the solemn pledges of the Government have been broken. Let me, as one who has also been wronged in this matter, ask you to review the facts at an early day, and to exercise such clemency as your judgment and sense of justice may dictate.

The above appeal I forwarded through the Attorney-General, accompanied by the following letter:

WASHINGTON, D. C., *February 11, 1883.*

SIR: I have the honor to inclose herewith a communication to His Excellency, the President, which I think should be forwarded through you. If for any reason you do not wish to transmit it, please return it to me.

At the indirect solicitation of a Cabinet officer, upon conditional promises of immunity, Thomas A. McDevitt came to Washington at his own expense, and under oath made statements which provisionally at least were accepted as satisfactory. He did nothing subsequently to forfeit his claims.

The innocent part borne by me in this and in one or two other transactions, which somewhat similarly have gone amiss, have caused me intolerable pain and humiliation, and have seriously embarrassed me in the performance of my official labors.

While not primarily responsible for the pledges referred to, I cannot shirk my duties to the men who have been asked through me to trust the Government of the United States.

Extreme reluctance to obtrude my own personality, or otherwise make myself disagreeable, cannot absolve me from my obligations.

Very respectfully,

P. H. WOODWARD,
Post-Office Inspector.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General, &c.

McDevitt served the full term of the sentence. In the treatment accorded to him a grave mistake, in my judgment, was made. I have never for a moment, however, questioned the conscientiousness of the Attorney-General. As viewed by him the path of duty led in one direction; as viewed by me, in another. From association with Mr. Brewster in these cases, I have reached the conviction that his actions are guided by lofty sentiments of personal and professional honor.

The second star-route trial ended June 14, 1883. The evidence and argument fill four volumes, aggregating nearly six thousand pages. Notwithstanding the adverse verdict of the jury, the record will remain a permanent memorial of the thoroughness with which the case was prepared, and of the completeness with which the charges were proved.

Some of the salutary results accomplished by the star-route prosecutions can hardly be appreciated by persons unfamiliar with the revolution it has helped to effect in the methods of the Post-Office Department. Since April, 1881, when the investigation began, two millions and a half a year have been lopped from the expenditures for star and steamboat service, notwithstanding an increase of mileage; an annual deficiency extinguished; letter postage reduced; and the Contract Bureau transformed into a model of purity and efficiency.

Could the honest and courageous officers at the head of the Department have succeeded in enforcing such far-reaching economies without the aid derived from the criminal proceedings? I think not. For years its corridors swarmed with professionals, each aiming to procure fat contracts, not by fair and lawful competition, but by unfair and irregular, not to say illegal, special orders. These men were upheld by all sorts of personal, political, and financial supports. The ordinary employé craved their favor and dreaded their enmity.

Yet, the power, once so firmly entrenched, has been completely dislodged. The reform begun in the spring of 1881 has never halted in its successful march. In the ordinary course of affairs the departmental administration which attempted to clean the Augean stable would have been crushed. In this case the triumph of the honest and economic policy was made possible by the vigor of the prosecution.

We might go still farther and claim that the standard of public morals has been elevated. On the one hand, the people have grown more intolerant of wrong-doing; and on the other, men in positions of trust have grown more timorous about yielding to dishonest inclinations.

I have seen my associates give days and nights of anxious toil to this work; their labors, though ending in a disappointment, were not in vain.

WASHINGTON, *April 11, 1884.*

P. H. WOODWARD recalled and further examined.

By the CHAIRMAN:

Question. On yesterday you stated that Mr. Cook, in the interview with President Garfield, at which you and Postmaster-General James were present, made some statement with regard to the prosecution of ex-Senator Dorsey; please state all that was said upon that subject at that interview.—Answer. Well, I only remember that he urged that immunity should be granted to Mr. Dorsey on the ground of his great services to the Republican party. The language in which it was put I don't remember, but the circumstances I very distinctly recall. I had said very little during this conversation, but at that I spoke, giving utterance to the idea which I expressed yesterday.

Q. Did he indicate what those services were?—A. No, sir.

Q. Did he make that remark to the President or to the Postmaster-General?—A. To the President.

Q. Was there any indication of approval or disapproval on the President's part?—A. Not at all. President Garfield was a good listener, and he said very little during the entire interview.

Q. Was that all that occurred at that interview on the subject?—A. That is all that I remember with regard to that point. I know that the President did not indicate any opinion of his own at all, or any purpose of his own. Mr. Cook took one side, I took the other, and the President gave utterance to no opinion whatever.

Q. Before that interview closed was there anything said by the President which indicated his purpose with regard to prosecuting all the offenders?—A. I know it was his general purpose to push these prosecutions.

Q. Was that the interview at which the remark was made to which Mr. James referred about "cutting the ulcer out"?—A. No, sir; that was at the first interview we had with the President. That was at the time when this first table of routes was shown to the President.

Q. Was Mr. Cook present at that interview?—A. No, sir; he hadn't come into the case at all at that time.

Q. Is there any further fact which you remember which convinces you that that was the first interview with reference to the star-route cases that Mr. Cook had had with the President?—A. I know he was introduced to him that night. That was the first time they had met—unless the President was acting a part, which I do not believe he was doing.

Q. Did the President indicate from his manner that that was the first presentation of Mr. Cook?—A. Certainly. That was the understanding of Mr. James and myself, that Mr. Cook was going up that night to be introduced to the President; and he was introduced. Of course I don't remember the minute circumstances, but we were both thoroughly satisfied on that point.

Q. Did the President ever say anything to you about having instructed Mr. Cook to report to him directly upon those cases?—A. Never.

Q. With whom did he consult with regard to the prosecutions?—A. I presume chiefly with the Attorney-General, who was the law officer of the Government.

Q. Did you know of any failure of his to consult with the Attorney-General in regard to the prosecution of these cases?—A. No, sir. That

is something that I would not know about; I was not a member of the Cabinet.

Q. If there was any disposition to avoid any of the members of the Cabinet in matters pertaining to the prosecution, you did not know it?

—A. I did not know it.

Q. There was something said about the failure to indict J. L. Sanderson; it was explained by Mr. Bliss by saying that he ought not to have been included in the first indictment. Please state what you know about Sanderson's case?—A. Well, I was very much surprised when he was included in the first indictment, because he did not in any way belong to the Dorsey combination. He was a subcontractor on the route from Saguache to Lake City, which belonged to John R. Miner. He took it from Mr. Miner either at the beginning of the contract term or perhaps shortly before—my recollection is that it was shortly before the contract term; and so far as the papers showed he had no previous connection with that combination, and no subsequent connection. Afterwards we found that he was perhaps the beneficiary on a short route from Ouray to Los Pinos—perhaps twenty-miles long—once a week service, where the annual pay was between three and four hundred dollars. That service was duplicated; that is, there was also daily service between Los Pinos and Ouray; but at the time of the indictment I do not think we knew of Sanderson's connection with this small route.

Q. If there was no evidence implicating him why was it that his name was included in the first indictment?—A. I know nothing about that. I had nothing to do with it and know nothing of it of my own knowledge; and I was surprised when his name appeared there.

Q. You did not furnish his name, or draw the indictment, or make any suggestion?—A. No, sir; I did not make any suggestion with regard to the inclusion of any one. That was something I had nothing to do with.

Q. Did the papers contain his name or show any connection with the route?—A. Yes, sir; the route from Saguache to Lake City was one of Mr. Miner's routes. It belongs to that group. Our inspectors had investigated the service on it, and the history of that route was among the papers which I turned over to Colonel Bliss; and to a person casually looking at them, Sanderson might seem to have some connection with the conspiracy. He had some connection with the route but not with the conspiracy.

Q. Who was responsible for putting his name in the indictment?—A. I do not know; that is a matter that rests between Mr. Ker, who drew the indictment, and Colonel Bliss, who managed the business generally. But I have no personal knowledge of that.

Q. There must have been some evidence before the grand jury?—A. All the evidence that was put before the grand jury I put before them, and it included this Saguache and Lake City route.

Q. Did you testify before the grand jury to any fact which would have warranted the placing of J. L. Sanderson's name in this indictment?—A. Well, theoretically, I would not be perhaps a competent person to pass upon the sufficiency of evidence for the inclusion of any one.

Q. Did you testify to any fact implicating him?—A. I put before them in the ordinary course of business the history of that route in which Sanderson figured as contractor at the full rate of pay, showing that he was the substantial owner of the service; but the reason for not including him was that he had no connection before or after this time with the Dorsey combination. I mean no close connection which would indicate that he was one of them.

Q. There must have been some evidence before the grand jury implicating him or the grand jury would not have reported him for indictment; or else his name was surreptitiously put into the indictment?—A. I have an indistinct recollection that the oath on that route was made by Sanderson. I presume it was on that that he was embraced in the first indictment.

Q. Was that oath true or false?—A. False, I think; but every one of them that we investigated was a false oath without any exception.

Q. Do you remember particularly whether the facts stated in their affidavits were true or not?—A. Yes; I remember distinctly that they were not true.

Q. Then there was evidence upon which he could be indicted in the first indictment?—A. Not as a conspirator with the Dorseys. I know that Sanderson came to me, and his attorney came to me, at my office. I told Sanderson that I thought he was indicted in this case by mistake, and that when we went for him we should go for him not on any baby case but on the strongest case we could make against him. It didn't seem to comfort him much, but it was all that I could say to him.

Q. If he swore falsely to that affidavit, would not that be ground for indicting him for perjury?—A. Well, I am not up in the law, but I think that that matter was discussed by counsel from time to time, and they thought these oaths were not papers that actions for perjury could be sustained on; that they could only be introduced as part of the general evidence to prove a conspiracy.

Q. That they were not such judicial oaths as the statute imposed the penalty of perjury upon?—A. I think that was their conclusion, but of course I would not be a competent person to testify to matters of that kind.

Q. No, but I am only asking you with regard to the general course of the prosecution?—A. I don't remember that any one was ever indicted on any of those oaths for perjury; perhaps one or two were. I do not know of my own knowledge. Some of them were very rank perjuries, undoubtedly. The reason that I say he ought not to have been embraced in that first indictment was that he had no close connection with that conspiracy, and that, when indicting him, we ought to have indicted him on the very strongest case we could find. This was a weak one; we could have done better. I will say, furthermore, with reference to the route from Garland to Ouray, that right in the midst of my work I was called into court (in June, 1882), and the work of further preparing these cases was there permanently suspended.

Q. Do you know how it happened that the name was left out of the second indictment?—A. I do not.

Q. He was indicted by his initials, as were also one or two others?—A. Yes, sir. With regard to the indictment by initials, Mr. Ker asked me once or twice what the first name of M. C. Rerdell was; I never saw his name signed in any papers except "M. C. Rerdell." Afterwards the clerks hunted among the bids and they found some proposals which were signed "Mont. C. Rerdell." One or two of the grand jurors asked me about this also. I was very busy and did not pay much attention to it. I suppose I am responsible for the misnomer of *Vaile*. One of the jurors asked me what his name was, and I had never seen it in the papers except as H. M. Vaile; but I made some inquiries, where and how I do not recall, and as a result reported to the grand jury that his name was Henry. So that that mistake originated through me.

Q. Will you explain what efforts were made by you and the counsel for the Government to secure indictments in connection with the Corpus

Christi and San Antonio route?—A. Well, if I had known that the question was to be asked me I would have looked it up. But in the first place, you know, in regard to those late matters I had nothing to do with the grand jury. I simply prepared the evidence and turned it over to Colonel Bliss; but I know that they were indicted successively; that is, at first Brady and Price were indicted. I do know something about the introduction of Price as a witness, because that I had something to do with, but that came along afterwards. That rested within my own knowledge; the other matters Mr. Bliss or Mr. Ker would be much more competent to testify about than myself. Is that what you refer to?

Q. Yes.—A. Well, in the year 1882, I went to Connecticut to spend the holidays, and perhaps the day after Christmas I was telegraphed to to come back immediately to Washington. I came here and was told that a controversy had arisen between the counsel respecting the acceptance of Mr. James B. Price as a Government witness, and that the matter had, in a certain sense, been referred to me. I was handed a statement, unsigned and unsworn to, which purported to give what Mr. Price was willing to testify to, and was told to see him and obtain more explicit information. I spent two days with Price, taking down his statements. He put them in my hands in trust, to be returned to him in case he was not accepted as a witness. I called on the Attorney-General and read this statement. He asked me more or less questions about the relations of the testimony of Price and Walsh to each other and to the case. I explained everything as well as I could, and there seemed to be no doubt in his mind with regard to the propriety, and, in fact, the necessity of accepting Price as a witness.

Q. To what did that testimony relate?—A. It related to the Corpus Christi and San Antonio route; it related to the payments of money toward the fund which was raised to influence the action of Congress in 1882, when the appropriation bill for \$1,200,000 was pending; and it related to some steamboat service in Missouri, I think, which was comparatively unimportant; and to the payment of a check which was given for the benefit of Mr. Brady. I have not read the affidavit for a long time; that is, that part of it. I have read the part with reference to the San Antonio and Corpus Christi route within a couple of months, but the rest I have not read for a great while.

Q. What were the facts with regard to the payment of money to General Brady?—A. That has passed out of my mind. It is embraced in the affidavit, but I could not testify to it now.

Q. What amount of money was it?—A. I think it was a check for \$500; I do not recollect the circumstances of the payment sufficiently to testify to it; my recollection is that General Brady was the beneficiary of this payment, and that it had to pass through a bank in some way.

Q. Was that the same payment collected by Walsh afterwards?—A. No, sir; it had nothing to do with that. It is in the affidavit, which is at your service at any time.

Q. Did that affect in any way the finding of an indictment against Senator Kellogg?—A. Yes; this led to the indictment of Senator Kellogg. The Attorney-General directed me to notify the counsel that he accepted Mr. Price as a witness. I know that it was on the 31st of December that I had this interview with him; I think that was very near the end of the week; perhaps it was Saturday night; my impression is that it was.

Q. Was there anything said between you and the Attorney-General

pending the consideration of the question of receiving Mr. Price as a witness, as to whether his testimony would cause an indictment to be found against Senator Kellogg?—A. Oh, yes, sir. That was the essential matter of discussion.

Q. What did he pretend to say in reference to that?—A. Well, he took the general ground that in the discharge of his duties he could know no distinction of persons, and that the more elevated the rank of a wrongdoer the more certain should be his punishment.

Q. With that full knowledge of the fact that Price's testimony would probably cause the indictment of Mr. Kellogg, what instructions did you receive from the Attorney-General with regard to the acceptance of Mr. Price?—A. He told me that he accepted Mr. Price as a witness, and he instructed me to notify the counsel to that effect.

Q. Did you do so?—A. I did. I wrote a letter and presented it jointly to Messrs. Merrick, Bliss, and Ker, informing them that I was instructed by the Attorney-General to notify them of the acceptance of Mr. Price as a witness.

Q. Who is Price?—A. He lives in Missouri. He has been a mail-contractor for a long time, and he had considerable service at the time these investigations began in Texas and in the southwest.

Q. He was a contractor?—A. Yes; he was a contractor.

Q. Have you a copy of the letter which you wrote to the counsel?—A. I presume I have. I keep copies of all letters now. It was simply a notification that the Attorney-General instructed me to inform them that he accepted Mr. Price as a Government witness.

Q. Did you have any conversation with any of the counsel after this on that subject?—A. Yes. I talked with Mr. Merrick and Mr. Bliss. It led to considerable disturbance. Mr. Merrick took the ground, even before this action of the Attorney-General, that Mr. Price ought to be accepted as a witness, because where the contractors or the lesser criminals come forward and gave evidence against greater criminals, they should be allowed to testify, and that the implied obligation which the Government came under to witnesses under such circumstances should be observed.

Q. Which was immunity?—A. Which was immunity. Of course there was nothing said about immunity, but it was always understood that if any witness was accepted that carried with it immunity. Mr. Merrick took the ground that a high officer of the United States, whether the Second Assistant Postmaster-General, or a member of Congress, or a Senator of the United States, who took bribes under such circumstances, was far more guilty than a contractor who was acting under more or less compulsion although acting voluntarily. Mr. Bliss, on the other hand, contended that the evidence against Price was strong and conclusive, that he was already indicted, and that the Government had no right to give him up to take anybody else; that he was sufficiently guilty to hold him, and that it would be wrong to give him up for the sake of taking Senator Kellogg. That was the ground of difference between them.

Q. Did the indictment of Mr. Kellogg turn upon the acceptance of Price as a witness?—A. It did. Mr. Kellogg does not appear in the record anywhere. But Mr. Price testified that he gave him \$20,000—\$15,000 in drafts and \$5,000 in a note—to secure the expedition on two routes. Walsh testifies that he received the same drafts and notes from Mr. Kellogg, with instructions to collect and pay half the money to Mr. Kellogg, and the other half to Mr. Brady. In fact it took both Walsh and Price to make one complete witness.

Q. What did Colonel Bliss say as to whether Price should be accepted as a witness under those circumstances?—A. I have given you the substance of all I know about it. He opposed it.

Q. Do you know what course he took in reference to other prosecutions on account of this action of the Attorney-General?—A. What do you refer to?

Q. Whether he ceased in any way his efforts in prosecuting other cases for the Government for any time by reason of this.—A. Well, he felt personally aggrieved by the action of the Attorney-General. He thought there was something in it which was injurious to him; he took offense at it—I don't know why altogether—but the whole transaction was perfectly above board, so far as these gentlemen were concerned—Mr. Merrick and the Attorney-General—and I saw no reason why he should be aggrieved.

Q. Did he withdraw from the prosecution in any way?—A. He staid out of court for two or three days.

Q. Pending what trial was this?—A. The second star-route trial was then in progress.

Q. And Colonel Bliss felt aggrieved at the action of the Attorney-General and withdrew from the court for two or three days on that account?—A. Yes; he was in ill humor for two or three days.

Q. Who conducted the prosecutions during this time?—A. Mr. Merrick and Mr. Ker. I presume I prepared the papers. Perhaps Mr. Ker did; I don't remember. Mr. Bliss had a great familiarity with the papers, and whenever he was absent from any cause it was very embarrassing to us on account of his great familiarity with the papers, and his facility in putting them in.

Q. Did he remain in the city during that time?—A. I think so, but I do not know.

Q. Can you give the exact date?—A. It was on the 31st day of December that I called on the Attorney-General, and this occurred the following week. That would be the first week of 1883.

Q. What time in the week?—A. Unless I am mistaken, the 31st of December came on Saturday. That is simply my impression.

Q. And Mr. Bliss did not reorder the prosecution for two or three days?—A. I think not.

Q. Now, as to the papers which were supposed by the Government counsel to have fallen into the hands of the defendants, what information did you obtain as to the number and character of those confidential papers that fell into the hands of the star-route defendants?—A. Well, I know, in a way that I cannot explain, that they had our evidence in almost all of the routes. I know that they did not have our evidence on the route from Mineral Park to Pioche, or on the route from Garland to Parrot City, and by a coincidence that is perhaps not singular, our evidence on those routes was not sent to Mr. Cook.

Q. Are the papers to which you refer those which were finally introduced in evidence, or other papers which you did not intend to put in evidence at all?—A. They were not introduced in evidence. They were simply our briefs of the case. They were papers from which the lawyers made up the indictment, and they were the guides of the lawyers all through the case in putting in the evidence. They followed those briefs.

Q. Were any of those papers put before the police court at any time?—A. No, sir; the police court did not consider the matters embraced in those at all. They considered only the straw-bond cases, with which I had nothing to do.

Q. Pending the trial of the case, were the papers to which you refer handed over to the attorneys for the defense so that they could examine them before introduction?—A. Never. This was our case. They were allowed to go to the Department and examine the public files and records. They had free access to them to dig out whatever they chose to, but these abstracts were our private papers.

Q. They were not put on the files or accessible to the public?—A. They were not accessible to the public. They were turned over to the lawyers for their exclusive use in the prosecution. You are a lawyer in a case; now, the other side had no more right to those papers than the side opposed to you would have a right to your brief.

Q. They were intended for the confidential and exclusive use of the counsel for the Government?—A. For the counsel of the Government, and no one else except those who were assisting them in some way.

Q. But there were papers that were handed over to the other side?—A. All the files of the Post-Office Department they had access to; that was proper. They were public records. But these papers contained our arguments all the way through. They developed what we considered the frauds *and their significance*.

Q. So there there were two kinds of papers used; one kind which there was no objection to any one seeing, and the others confidential papers which were prepared exclusively for the use of the Government?—A. Certainly.

Q. And it was these confidential ones to which you refer that could have gotten to the prosecution in no way, except the one which you have described?—A. I described yesterday the only way in which that Kidder paper could have got to them.

Q. Now, please state before what grand juries you appeared, and in what cases you testified?—A. I was summoned before the grand jury first in February, 1882. It was the grand jury of which Mr. Wilson was foreman, and I think I was the only officer of the Government who appeared before that grand jury at all. I put before them the evidence on which the first indictment against the Dorseys was found. I went before them because they kept sending for me, and I went without asking any questions. It was a very competent, careful, conscientious, and painstaking body of men.

Q. How many times were you before that grand jury?—A. I think it ran over a period of perhaps three weeks. Probably a prosecuting attorney or lawyer would have done the work in much shorter time, but I was really under their control and not claiming in any way to exercise any direction over them.

Q. What did you do before the grand jury, and what was the nature of your services?—A. I took in the the files of the Post-Office Department; took in all our evidence; told them what the different witnesses would testify to, and gave them their names. I would go in, for instance, on, say, the route from Trinidad to Madison. I would explain the frauds as developed by the files and the record, and I would give them a list of the witnesses, and perhaps tell them in a few words what they would learn from each witness.

Q. Please state what your duties were generally in regard to these cases?—A. Well, it is rather difficult to say. It would take a book. I had the general charge of the preparation of the evidence and the custody of the papers.

Q. Was there any other person who had the custody of those papers than yourself?—A. Well, primarily I had custody of them, of course

subject to the direction of the Postmaster-General, if he had ever chosen to give any; but nobody ever did give me any.

Q. Were those confidential papers obtained or prepared after General Brady's removal from the office of Second Assistant Postmaster-General?—A. He was removed in April, I think, or perhaps May, and I did not begin preparing those papers until late in September.

Q. Could he have taken any of those papers out of the office with him?—A. Not one.

Q. Did you take the papers which embraced the Government case before the first grand jury before which you testified?—A. I presume I took them in for the purpose of refreshing my memory.

Q. Did you hold on to them or did you leave them with the grand jury?—A. Oh, I never left one of them, I think. If I did, they were returned to me immediately. I would not say absolutely that I never left a paper there, but I cling to papers pretty tightly.

Q. State whether the papers that came before the grand jury embracing the Government's case could have gotten there through any other person than yourself without your knowledge?—A. I do not know that I fully understand your question.

Q. Was there any other person in the employ of the Government who could have furnished this information to the grand jury from the papers you had in your custody without your knowledge?—A. Well, if I had been in the city I should have known of it. I had the general custody of them, but of course the counsel would control my actions.

Q. I am not speaking of the counsel. I am speaking of any other post-office inspector or employé who would have those papers in his reach?—A. We have two or three clerks there who would have access to them in my rooms; that is all. Nobody has ever handled these papers except the few of us who were employed in those rooms. At the time they were first presented to the grand jury I do not think we had more than two or three clerks left there, perhaps not so many.

Q. Can you state how many times you were before that grand jury?—A. I should say I went at least four times a week, or perhaps five times a week, for nearly three weeks.

Q. Did you take the papers in each of the 19 routes on which the indictment was founded in the conspiracy case, and explain them?—A. I explained the history of each route so far as I thought it was necessary. I did not take out every paper in the files on the route, because a great many of them would not indicate any fraud. I took out those papers which in my judgment went to prove fraud, and put them before the grand jury.

Q. Then you must have been at least several hours a week for three weeks before that grand jury in this one case?—A. Yes, sir. I was very sorry that all the cases could not have gone before that grand jury, because they came to understand this star-route business very thoroughly, and I think they were animated by a desire to do their exact duty; but the grand jury came to an end about that time by the expiration of its term.

Q. That grand jury before which you appeared so often did find certain indictments?—A. Yes, sir.

Q. Against whom?—A. Against Stephen W. Dorsey, John W. Dorsey—

Q. (Interposing.) They found the indictment against the Dorsey combination?—A. They found the first indictment against the Dorsey combination. That indictment was relinquished on account of the misnomer of Vaile, and the indictment of Rerdell by his initials.

Q. Then another indictment was found against the Dorsey combination?—A. Yes, sir.

Q. Did you appear before that grand jury on the Dorsey cases yourself?—A. I cannot recall whether I did or not. I appeared before that grand jury more than once I know, because I remember the attitude of a particular man on the jury who appeared to be very captious (I don't remember his name), and from that circumstance I remember that I was before them more than once.

Q. Was that the Mitchell grand jury case?—A. Yes, sir. But the only case that I remember appearing on distinctly was the Venita and Las Vegas case.

Q. Which one of the Government's counsel was charged with the responsibility of conducting the Government's case before the grand jury?—A. Colonel Bliss.

Q. Did Mr. Merrick have anything to do with it?—A. Nothing whatever.

Q. Did Mr. Ker?—A. Not at that time. He went before the grand jury perhaps eight months or a year later in the Kellogg case, but during 1882 he had nothing whatever to do with the matter except to prepare the indictments.

Q. Then it was the duty of Colonel Bliss, as one of the Government counsel, to appear before the grand jury and present the evidence in those cases?—A. I do not know that it was his duty to appear before the grand jury. All I mean to say is that the evidence was turned over to him to make such use of it as he thought best. It would not have been necessary for him to appear.

Q. Whose duty was it to see that the witnesses were summoned to appear?—A. Colonel Bliss attended to all that. He selected the witnesses to appear and had them subpoenaed.

Q. State what you did in the way of furnishing Colonel Bliss with the necessary evidence on which indictments could be found.—A. I prepared a paper giving a history of each route, and what each witness would testify to on that route so far as we knew the facts up to that time. Of course, when the witnesses came here to the trials I examined them still further, and we got some additional evidence.

Q. Then, the responsibility of procuring the necessary evidence upon which indictments could be found, and briefing it, was with you?—A. Yes, sir; with me.

Q. And the responsibility of bringing it to the attention of the grand jury was with Colonel Bliss?—A. Yes, sir; and the responsibility of preparing the indictments was with Mr. Ker, and Mr. Merrick came in to conduct the cases in court.

Q. He was simply counsel to conduct cases upon indictments already found?—A. Yes. Of course he was ready to counsel with them at any time, but he came in late.

Q. State what you did before the grand jury in regard to the Las Vegas and Venita route.—A. I was before them a very short time, perhaps half an hour, and I cannot recall what I did. I probably pitched some evidence at them.

Q. Did you answer all questions put to you by Colonel Bliss?—A. Yes, sir.

Q. Was he present?—A. He was present.

Q. What was the nature of that examination, and what information did you bring to his attention with regard to that route?—A. He had all the evidence in my possession before I went in and I answered any questions that he asked me, but of course I do not recall what they were.

Q. Were the papers taken from the files of the Department, and those reports of the special agents to which you have referred used before the grand jury in procuring indictments in all of these cases?—A. The files of the Post-Office Department relating to them were carried there.

Q. And they were used before the grand jury as evidence?—A. Yes, sir; and they were admitted as evidence by the judge at the trial before the petit jury.

Q. State to what extent you explained the papers in the Las Vegas and Vinita route before that jury?—A. I don't recall; I cannot remember what I did testify to. It was a very short time that I was there.

Q. It was a short time?—A. Yes, sir.

Q. Were you there long enough to explain all the facts, and did you explain all the facts in relation to that case to the grand jury?—A. I explained all the facts that I was called upon to explain.

Q. What facts were those?—A. Well, the facts are numerous and complicated, and just what I was asked I have no remembrance of whatever.

Q. You have some idea of what would constitute a case before a grand jury to justify them to find an indictment?—A. Well, I have the abstracts prepared up to that time that were in our possession.

Q. Did you give the grand jury sufficient information while you were before them upon which they could properly have found indictments in the Vinita and Las Vegas route—orally I mean?—A. That is a question upon which I could hardly pass an opinion. It would depend upon the grand jury; and I do not remember the questions that were asked me. I had no responsibility of course for the presentation of that case.

Q. I understand that; but I want to know whether Mr. Bliss drew out of you by questions the evidence in that case which was in your possession, and in the possession of the Government.—A. Well, of course, in half an hour I could not have explained that case.

Q. You could not?—A. No, sir; I think not. I think that in an hour or two the Wilson grand jury would have understood that route.

Q. In an hour or two?—A. Well, I think in one day they would have understood that route; but how much information this grand jury had about the star-route matter I do not know. The Wilson grand jury became very familiar with the matter.

Q. I am only asking about the information which *you* gave the grand jury in regard to that route.—A. Well, I was before them a very short time.

Q. Can you remember the nature of the questions put to you by Colonel Bliss in that case?—A. I don't remember.

Q. What were the facts which your briefs furnished with regard to that Vinita and Las Vegas route?—A. They are here. I can give you, I think, in a few words the substance of the facts, if you would like it.

Q. Yes; please give them.—A. There is a good deal of complication about the early orders in this route, and it would probably only confuse if I should go into them; so that the questions with regard to compensation, &c., I will defer until towards the end, because I have them much more explicitly detailed further on; but I think in a few words I can give you a general outline of the history.

Route No. 32024, from Vinita, Ind. Ter., to Las Vegas, N. Mex., was let to V. W. Parker, of Atchison, Kans., once a week service on a schedule of ten days, from October 1, 1878, to June 30, 1882, at the annual pay of \$6,330. The distance, as advertised, was 725 miles. By

an order of September 27, 1878, the contractor was ordered to embrace Hayes, Wheeler, and Tascosa, all in the "Panhandle" of Texas; and by an order of October 8, to embrace San Flaris next after Fort Bascom, Cabra Springs, Gallinas Springs, Hatch's Ranch, and La Liendre next after La Cinta. October 22, two petitions were filed asking for increase of service to three trips a week, and a third, couched in the same language, followed December 11. November 9, 1878, General Brady ordered:

From December 1, 1878, increase service to three trips per week, and allow contractor \$12,660 per annum additional, being pro rata.

November 16, 1878, there was filed the subcontract of J. W. Parker, for the full term at full pay. In November, three more petitions, written or copied by the same three hands that prepared the petitions for additional trips, and, like them, worded in the same language, were filed. They ask that the schedule be reduced from ten to seven days. November 14, 1878, V. W. Parker made affidavit that tri-weekly service on a ten days' schedule required 20 men and 45 horses; that the same on a schedule of seven days would require 50 men and 124 horses—an increase of one hundred and sixty-seven per cent.

On a schedule of ten days the rate of speed was 3.02+ miles per hour, and on a schedule of seven days, 4.31+. With three trips per week there were 621.43 miles of daily travel. If 45 animals were used they would be required to travel on an average 13.81 miles per day, and if 124 were used, an average of 5.01 miles per day only would be imposed on each. In other words, an increase of speed from 3.02 to 4.31 miles per hour, reduced the capacity of a horse for daily travel from 13.81 to 5.01 miles. Under the last supposition an average use of one hour and ten minutes per day only would be required of each animal. If double teams were used it would be necessary to multiply the above results by two.

On the 23d of December, 1878, General Brady ordered:

From January 1, 1878, perform service in seven days in each direction, and allow contractor \$31,846.31 per annum additional, being pro rata for additional stock and carriers required, as appears by sworn statement of contractor.

By this order the total annual pay on the route was increased to \$50,836.31.

Mr. James C. Blythe, postmaster at Vinita, Indian Territory, took a different view of the needs and prospects of the country, from the author of the two sets of petitions; for January 12, 1879, he wrote to Hon. D. M. Key that the service as increased to three trips (he evidently knew nothing of the expedition) was—

Wholly superfluous and a burden to the Department, for the following reasons:

First. That during this whole distance, 720 miles, there are only two (2) intermediate offices, and they of minor importance, and can be easier supplied.

Second. That there is no country through which the route passes (wilderness and desert) to build up offices—perhaps two neighborhoods.

Third. That during the time I have not, as yet, received to exceed fifty letters and half a dozen papers since the route went into operation.

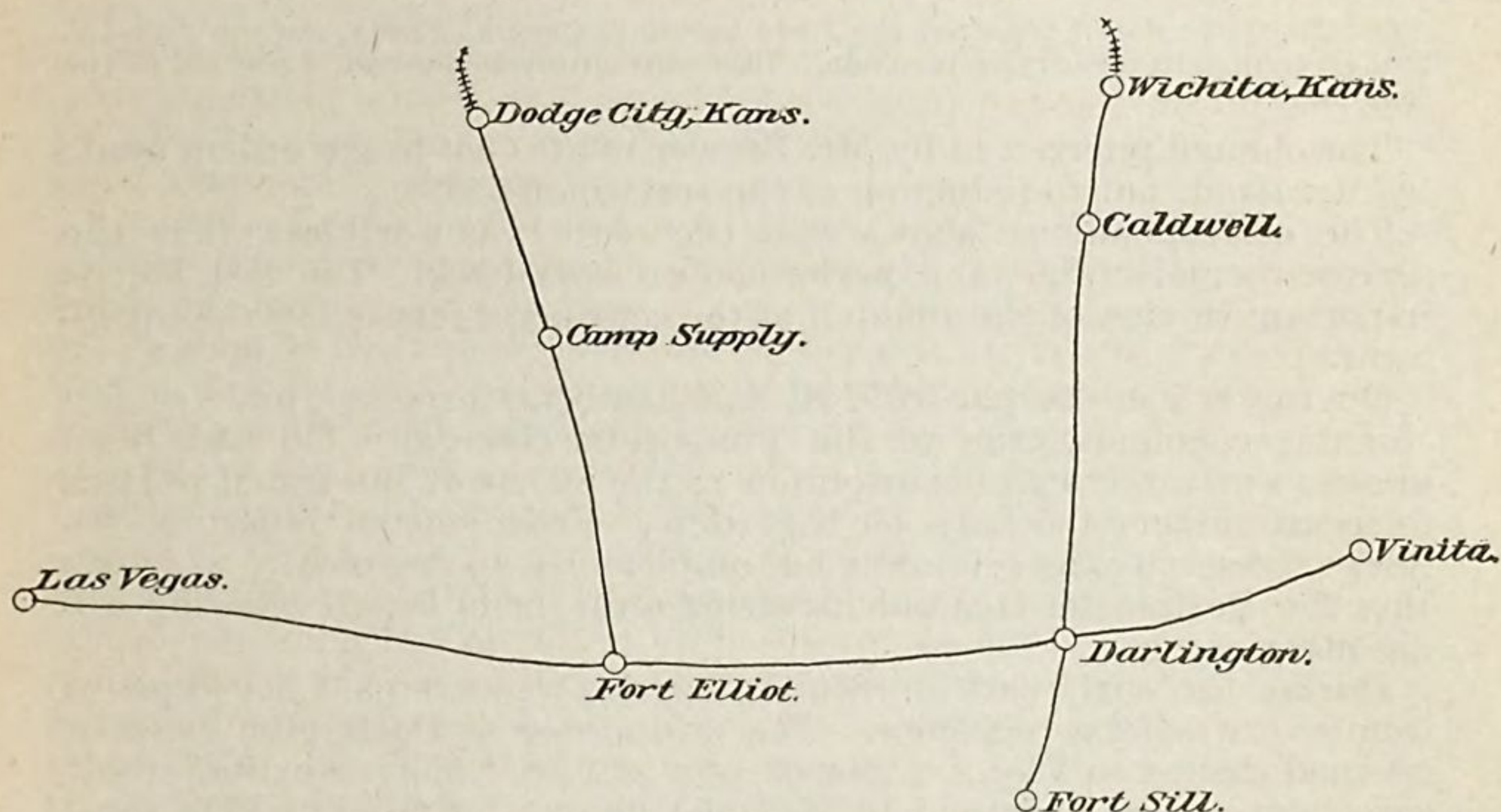
Fourth. That contractor is not complying with terms of contract.

This letter was written 102 days after the service began, showing that the letters received averaged about one for every two days.

We come now to a remarkable batch of letters, most of which were transmitted to the Department through Mr. W. L. Hunt, Superintendent Railway Mail Service, at Saint Louis.

February 22, 1879, General John B. Hatch, commandant at Fort Elliott, Tex., complains to Hunt that no mail from any point east of Dodge City, Kans., has reached the post for ten days, though in that time four have come from Dodge City.

February 28 Mr. Hunt replied to General Hatch, that mails for Fort Elliott had, for a short time, been forwarded via Wichita, Kans., to Darlington, Ind. T., and thence by route No. 32024. He infers that service on the latter is not properly performed, and therefore directs that it again be sent via Dodge City.



February 27 W. M. D. Lee, postmaster at Fort Elliott, notified Mr. Hunt that his office had not received any eastern mail for nearly three weeks. He attributes the delay to the ordering of the mails via Darlington, and shows why they should come via Dodge City. One thousand pounds are detained on the road.

On March 2 Mr. Lee wrote substantially the same facts to the Second Assistant Postmaster-General. On the 7th he notified Superintendent Hunt that the mails were coming all right via Dodge City. In answer to the query, "Why regular tri-weekly trips are not made between this place and Darlington," he said: "We can simply say we don't know. This office has no information, official or otherwise, except from the agent of the contractor, of the existence of such a contract."

On February 10 George E. Reynolds, postmaster at Darlington, Ind. T., replied to a letter of inquiry from Hunt, with regard to weight of mails, &c., over route 32024, that to the best of his knowledge there had not passed through his office over the route but two papers and not to exceed two letters per month. Respecting the relative merits of the roads to Vinita and Caldwell, he said:

We depend entirely on the Caldwell route for our mails, and the road is an old one * * * and the only one thought of or traveled to and from this point. As to the road from this point to Vinita, I have no knowledge of there being any, as there is not nor has there ever been any line of communication between the two points excepting the present mail service. That is being performed on horseback over the prairies regardless of roads.

To a similar inquiry J. C. Blythe replied, February 7, that the mail sent over route 32024 was very small; some trips none whatever either way. The letters would not average over two to the round trip. No papers; roads very bad; service performed on horseback.

March 12, Mr. Hunt transmitted the correspondence, with a report, to W. B. Thompson, Superintendent Railway Mail Service. He had ordered the mails sent via Dodge City, and everything was again moving smoothly.

March 17, Brewer, contract clerk, indorsed upon the report of Superintendent Hunt:

On the above date I reported the facts herein to General Brady, and he directed that no change in the service be made. The contractor was personally notified of the complaint.

The change referred to by Mr. Brewer relates *not* to the orders made by Mr. Hunt, but to reduction of the service on 32024.

The correspondence shows that the route was worthless, that the service was miserable, and performed on horseback. The last fact is important in view of the affidavit of the contractor respecting the equipment.

On the 8th of March, 1879, H. A. Chambers, inspector, addressed a singular communication to the Postmaster-General. He had been urged to privately call his attention to the efforts of interested parties to secure further increases on this route. From general report he believes the service, as originally let, ample. He apologetically suggests that the Postmaster-General investigate the facts before allowing additional service.

During the early part of 1879 the service was wretched, as appears from overwhelming evidence. The postmaster at Darlington knew of no road thence to Vinita. The officers at Fort Elliott sent indignant complaints to Superintendent Hunt on account of the long and total interruption in the through service from the East. The postmaster at Fort Elliott claimed that his information respecting the existence of the route was derived wholly from the agent of the contractor. The trouble and commotion at Fort Elliott were caused by a mistaken effort on the part of Mr. Hunt to utilize that part of the route between Darlington and Fort Elliott. He finally broke the blockade by ordering the mails to be forwarded via Wichita and Dodge City, Kans., around three sides of an irregular square.

Two additional trips and costly expedition had already been ordered upon the route; yet, despite this wanton and useless expenditure, at the very time when an outraged public and honest officials were bringing the facts respecting the wretched quality of the service to the attention of the Department, the conspirators were massing their forces for another, and, if possible, more disgraceful raid upon the Treasury.

Stereotyped petitions were manufactured asking that the number of weekly trips be increased from three to seven. The Merchants' Exchange and the Cotton Exchange of Saint Louis were induced to lend their aid. Numerous Senators and Representatives from the Southwest joined in. Notwithstanding the official information in his hands, which remained uncontradicted, General Brady was ready with his puissant pen, for June 25, 1879, he ordered:

From July 1, 1879, increase service to seven trips per week, and allow contractor \$86,052.59 per annum additional, being *pro rata*. Change schedule to daily. Make same allowance to subcontractor.

A partial history of the principal paper upon which the above order was based was imparted to me by a gentleman who, in procuring it,

acted a subordinate but not unimportant part in the scheme. At the instance of the contractor's attorney, this gentleman took a carriage one day in this city to circulate a petition for increased service on this route among Senators and Representatives from the Southwest, chiefly from Texas, Arkansas, and Missouri. He called upon members of both houses, and all who were invited, except two, signed the paper without hesitation or comment. One member of Congress said: "This ought not to be done, and if I were Postmaster-General I would not do it." After some further parley he added his name with the general remark: "This is wrong and the Postmaster-General will not be fool enough to do it, but I sign to oblige you."

The gentleman received \$500 for his afternoon's work.

In the earlier stages of the development of the job other prominent public men, doubtless with equal lack of reflection, lent the weight of their names to its furtherance.

In this connection the manner in which another paper, which was likewise made an additional excuse for the increased service, was manufactured, may be briefly given.

Mr. Joseph W. Parish, now of Washington, was employed by the firm of which the contractor was a member to circulate petitions among members of the Merchants' and of the Cotton Exchanges of Saint Louis, asking for daily trips on route No. 32024. They proposed to give him a share in the profits, and talked of schemes for cattle raising and colony planting in a way to greatly stimulate his efforts. Mr. Parish was told to represent that he had an interest in the route, that his friends in the Exchange might think they were benefiting him by giving their names. He labored three or four days in the appointed vineyard with great success, using the letters and arguments furnished by his employers. He recognizes the petitions now on file as the ones circulated by him in the month of February, 1879.

For the above services Mr. Parish received \$100 in cash and a loan of \$750, with the understanding that it was never to be called for if the petitions were granted, but otherwise to be repaid. Parish gave his obligations for the amount subject to this contingency. After the Department had granted the increases the firm attempted to collect the loan. About October, 1879, E. W. Parker tried to excuse broken promises by alleging that so many were holding their hands behind them that he could not do anything then, but would soon. Subsequently, in Washington, he repudiated his original verbal agreement on the ground that the firm would not furnish the requisite funds. The dispute is in litigation.

On August 16, 1879, E. W. Parker wrote to Mr. Parish: "Be careful and impress Hunt that you are an interested party and find out his price," &c.

Mr. Walter L. Hunt, then superintendent of railway mail service for the Southwest, with headquarters at Saint Louis, had, during the previous winter and spring, reported to the Department a number of unpalatable facts with regard to the general uselessness of the route and the poor quality of the service upon it. Parker wished to change his attitude and knew of but one method. With the directness characteristic apparently of the business, he urged Mr. Parish orally and by letter to ascertain the cost of securing the support of Hunt, and volunteered to furnish the purchase money.

Acting under such solicitation Parish saw Hunt, whom he knew well, told him he had an interest in the route, and asked his aid, but offered no money, believing that Hunt would resent any attempt at bribery.

Parker also urged Parish to ply Hunt with liquor in order to bring him more fully under control. Parish claims that his efforts to influence the officer were confined to strictly legitimate methods. On his side Hunt represented that the matter did not concern him particularly, and he seems to have dropped it.

Let us now examine the manner in which the length of the route was manipulated, whereby it was first cut down from 725 to 638 miles, and then by embracing new offices extended to 810 miles.

An official distance circular sent out January 6, 1879, and filed March 17, 1879, gave the total length of the route as let as 638 miles. A second circular, without date, but, like the former, directed to V. W. Parker, filed March 18, 1879, gives the length of the route as 810 miles. This last circular, which seems to have been made the basis of the subsequent increases of distance, is throughout in the same handwriting. The names of all postmasters were signed by a single person. There is an original, marked "4" in blue pencil in the upper right hand corner, and signed by 12 postmasters, from which it was obviously manufactured. In the original the distance from Hayes to Fort Bascom is given as 85 miles, but "109" is written boldly over it; from Fort Bascom to San Hilario, 20 or 22 miles, over which "28" is written; from Gallinas Springs to Las Vegas, "40" is written over an erasure—perhaps "30." The distance from Cabra Springs to La Liendra was also changed to 30, possibly from 40. From Vinita to Darlington the circular is blank.

By an order of September 27, 1878, prior to the beginning of the term, Hayes, Wheeler, and Tascosa, all in the Panhandle of Texas, were embraced from October 1, 1878, the pay for supplying them being left for future adjustment. The three offices were established on the recommendation of Stephen W. Dorsey, dated April 26, 1878, his views being indorsed on the several location papers, which in each instance purport to be filled, as far as they are filled, by "William Burnes, mail carrier." The vital queries, intended to inform the Department whether the distance is increased, and if so, how much, are all left unanswered. It should be borne in mind that the figures below given are prorated on a basis of \$6,330, the original contract price, and that after the subsequent manipulations they were multiplied by over twenty-two.

On March 19, 1879, General Brady ordered:

I. From October 1, 1878, allow contractor \$843.34 per annum pro rata for 85 miles additional for Tascosa, Hayes, and Wheeler, embraced by order No. 8392, September 27, 1878.

Inspector Edward E. Boyd, in a report dated February 9, 1882, says that—

Tascosa and Wheeler are directly on route No. 32024, between Fort Bascom and Mobeetie (Fort Elliott). Tascosa is a small town, having a few stores and, in my judgment, from 100 to 200 inhabitants. Wheeler, 25 miles east of Tascosa, is only a cattle ranch, and directly on the main trail to Mobeetie. Hayes, which was discontinued in 1879, was also a cattle ranch, but its exact locality I was unable to learn.

W. L. Nicholson, esq., topographer for the Post-Office Department, in January, 1882, prepared a map of the route from the best attainable data. The above offices are therein located in the valley of the Canadian River, and hence they must be on or near the traveled highway. Hayes was discontinued February 18, 1879, and Wheeler, temporarily, December 11, 1878, so that both were defunct when the order of March 1879, was made.

Again, March 19, 1879, General Brady ordered:

V. From January 1, 1879, allow contractor and subcontractor \$535.77 per annum pro rata for 12 miles additional for Seven Oaks and 6 miles additional for Prior Creek.

A location paper issued from the appointment office November 12, 1878, filed at the same November 23, 1878, and filed with the topographer December 5, 1878, states, over the signatures of Alexander M. Rider, proposed postmaster at Pryor Creek, and James C. Blythe, postmaster at Vinita, that Pryor Creek is *directly on* route No. 32024, 20 miles from Vinita.

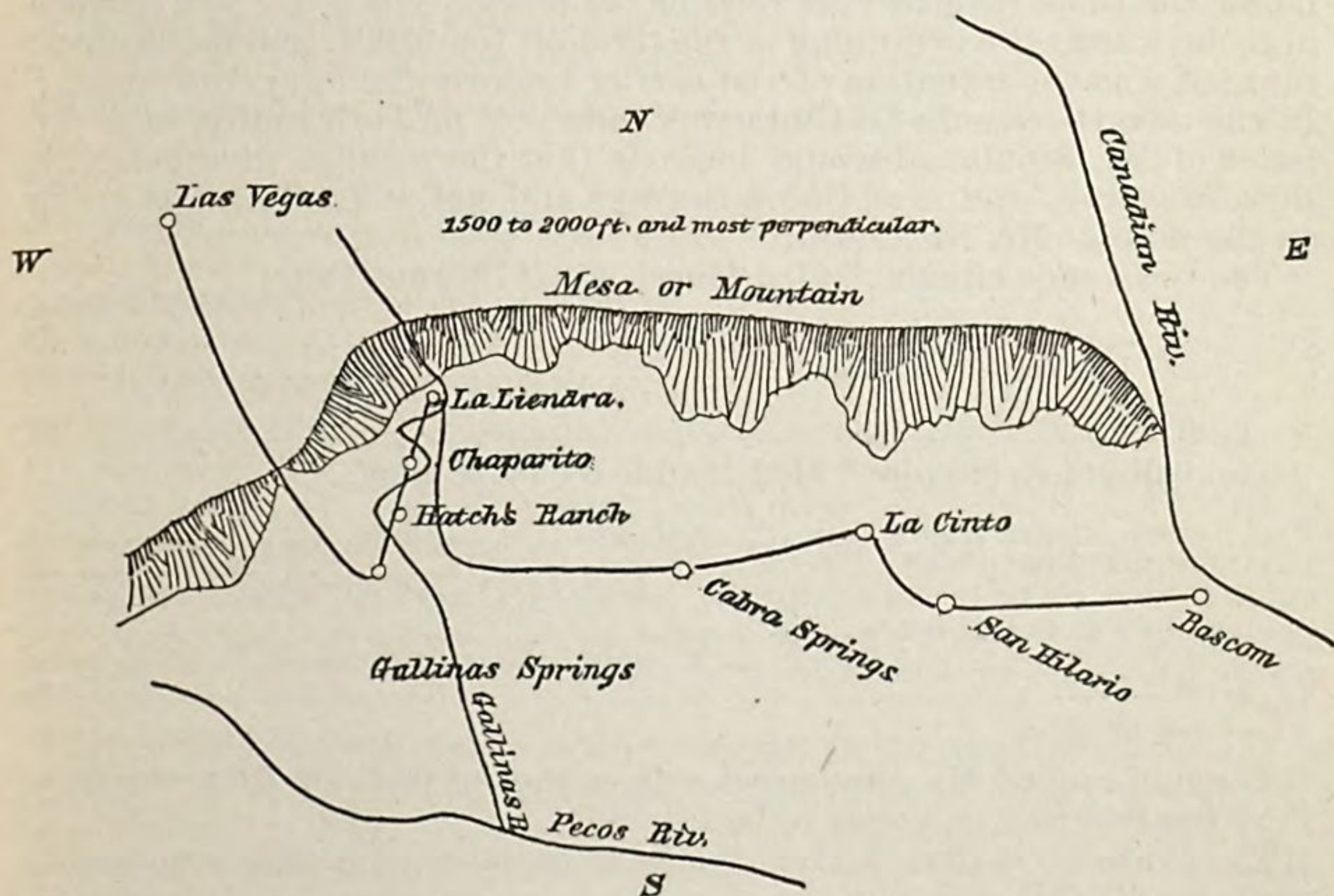
Another location paper issued November 19, 1878, and filed as above December 9 and December 23, respectively, states over the signatures of Thompson M. McFadden, proposed postmaster, and W. M. D. Lee, postmaster at Fort Elliott, Tex., that Seven Oaks is directly on route No. 32024, and will increase the travel nothing. It gives the distance to Fort Elliott as 27 miles and to Darlington as 140.

These papers, seemingly of the highest authority, show that the distance was not increased at all by embracing Pryor Creek and Seven Oaks.

Referring again to the comprehensive orders of March 19, 1879, which I have not treated as originally arranged, General Brady ordered:

II. Modify order No. 8879, October 8, 1878, to embrace San Hilario next after Fort Bascom, and Cabra Springs, La Liendra, Chaperito (n. o.), Hatch's Ranch, and Gallinas Springs, in the order named, next after La Cinta, increasing distance 69 miles, and pay \$684.89 per annum pro rata.

The above is grounded in part upon the map and explanations, copies of which follow:



GALLINAS SPRINGS, N. MEX., November 28, 1878.

HON. THOMAS J. BRADY,
Second Assistant Postmaster-General:

SIR: We, the undersigned, certify that to supply the post-offices on route No. 32024, from Vinita, Ind. Ter., to Las Vegas, N. Mex., in the Territory of New Mexico, in the following rotation, viz, Las Vegas, La Liendra, Chaperito, Hatch's Ranch, to Gallinas Springs is impracticable, because there is no regularly traveled road; because the Gallinas River has to be crossed six times, and often, owing to the rise and fall of its

waters, more times; and because of the mountains which, in one place, have a grade of about fifteen hundred feet to a mile, down a rough, rocky mesa or table-land, very dangerous to ascend or descend for a man or horse; and would recommend and ask that the route be run to supply the offices in the following rotation, viz, Las Vegas, by Gallinas Springs, Hatch's Ranch, Chaperito, to La Liendra, this way being the only one by which these places can be regularly and practically supplied.

This petition is signed by "Jas. E. Whitmore, P. M., Gallinas Springs, N. M.," and ten others.

Col. A. B. Carey, of the United States Paymaster's Department, long stationed in New Mexico and familiar with the country, told me February 22, 1882, that the *traveled* way from Fort Bascom to Las Vegas *always* passed directly through Gallinas Springs. Two other Army officers were present and corroborated the statement from personal knowledge. In going from Gallinas Springs to *Fort Union* Colonel Carey usually went via Hatch's Ranch and Chaperito, crossing the mesa, which could be done on horseback or in a light vehicle, but not with a load.

In this connection a letter, dated October 9, 1878, and accompanying map, from G. W. Stonerod, postmaster at Cabra Springs, N. Mex., becomes important. At that time the service between Fort Bascom and Las Vegas was practically duplicated. Mr. Stonerod asks to have Cabra Springs placed on route No. 32024, it being then on No. 39110, from Gallinas Springs to Fort Bascom. He says that the two mails come together at a point about one mile east of his office, and thence follow the same road to Fort Bascom, 64 miles. His letter was written nine days after the beginning of the term on No. 32024, and he assumed that "it was the intention of the carrier to cross the dangerous mesa." In the advertisements La Cinta was embraced on both routes, and the letter of Mr. Stonerod would indicate that the point of divergence, if there was any, was near Cabra Springs and not at La Cinta, as given on the map of Mr. Nicholson.

The "distance circular" filed March 17, 1879, runs thus:

	Miles.
Fort Bascom to La Cinta	33
La Cinta to Las Vegas	60
Total	93

The "distance circular" filed March 18, 1879, runs:

	Miles.
Fort Bascom via San Hilario (directly on the road) to La Cinta	36
Las Cinta to Cabra Springs	38
Cabra Springs via La Liendra, Chaperito, and Hatch's Ranch to Gallinas Springs.	48
Gallinas Springs to Las Vegas	40
Total	162

Increase, 69 miles.

The diagram of Mr. Stonerod makes the most direct distance from Fort Bascom to Las Vegas to be 110 miles.

The evidence is that, taking the year together, the only practicable road ran via Gallinas Springs.

Inspector Edward E. Boyd, who made a thorough examination of the western end of the route, in a report dated June 15, 1881, makes the distances—

	Miles.
From Fort Bascom to Cabra Springs	77
From Cabra Springs to Gallinas Springs, direct	16
From Gallinas Springs to Las Vegas	36
Total	129

He says that, owing to the mesa, Chaperito and La Liendra, 17 miles and back, were served by a side supply, when served at all. La Liendra

was discontinued in January, 1880. From September, 1880, till May 1, 1881, even Chaperito was not supplied.

Mr. Boyd makes the entire length of the route, embracing every office upon it, and even the side supply to Chaperito, 724 miles, or one mile less than advertised. Excluding Chaperito, its length is 710 miles.

Practically, from end to end, the length of the route was only increased to embrace new offices by the loop north of Gallinas Springs, which had no relations to the through service, being a mere side supply.

Both "distance circulars" were fraudulent. The first did not follow the traveled road. The second was not authenticated by the signature of a single postmaster.

Let us see what the supposititious 172 miles added to the route, first by reducing it from 725 to 638 miles, and then elongating it to 810 miles, cost the Government annually.

By the order of December 23, 1878, from January 1, 1879, \$31,846.31 were allowed annually for expedition, tri-weekly service.

On the 19th of March, 1879, General Brady ordered:

VI. Modify order No. 11421, December 23, 1878, to allow contractor and subcontractor \$40,429.88 per annum pro rata for expedition in lieu of sum stated.

The difference, \$8,583.57 represents the annual cost of expedition for tri-weekly trips on the distance improperly added to the length of the route.

By order of March 19, 1879:

Allowed for 85 miles, 1 t. w	\$843 34
Allowed for 69 miles, 1 t. w	684 59
Allowed for 18 miles, 1 t. w	178 59

Annual allowance for trips only, 172 miles, 1 t. w	1,706 52
	3

172 miles, on three trips a week	5,119 56
172 miles, expedition, three trips a week	8,583 57

Annual increase for 172 miles, 3 t. w	13,703 13
	$\frac{7}{4}$

Annual increase for 172 miles, 7 t. w	31,973 97
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In other words, the sophistication of the distances superadded nearly 27 per cent. to the cost of the service : 638 miles : 810 miles :: 100 : 1.27, nearly.

But the memorable order of March 19, 1879, is not yet exhausted, for section VII provides—

Distance being now 810 miles, in lieu of 638 miles as let, allow contractor nine days running time in each direction from March 20, 1879, being pro rata, and change schedule accordingly.

Thus the schedule time was first reduced from ten to seven days, and then, by methods already described, extended to nine days. What did the operation cost?

Original pay, 1 trip a week	\$6,330 00
Additional trip a week, 85 miles	843 34
Additional trip a week, 69 miles	684 59
Additional trip a week, 18 miles	178 59

Pay without expedition for one trip a week	8,036 52
	7

Pay without expedition for seven trips a week	56,255 64
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Total pay (including expedition) from July 1, 1879, 7 t. w	150,592 03
Total pay for trips only, 7 trips a week	56,255 64

Cost of expedition	94,336 39
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Thus, a saving of one day out of ten, real or fictitious, on a line extending through a wild, and to a large extent, uninhabited country, was made to cost the Government the sum of \$94,336.39 per annum.

By the order of March 19, 1879, 85 miles were added for embracing Tascosa, Hayes, and Wheeler. At that very time Tascosa was the only one of the three in existence, Wheeler having been discontinued December 11, 1878, and so remained until August 18, 1879, and Hayes having been discontinued February 18, 1879. The allowances of distance were actually made for supplying dead offices.

Although 69 miles were added for La Liendra, Chaperito, Gallinas Springs, &c., it has been already shown that the only practicable road between Fort Bascom and Las Vegas passed through Gallinas Springs, and that the places off from the road were served by side-supply. La Liendra and Chaperito should never have been embraced on this route. A separate and adequate service could have been given them at trifling expense. Besides, La Liendra was discontinued January 30, 1880, and Chaperito was discontinued October 8, 1877(?), to be re-established January 30, 1880. In neither instance did the contract office reduce the length of the route.

This route was advertised to be 725 miles long, ample as already shown to embrace every office, and to take advantage of the pass at Gallinas Springs, N. Mex. Are contractors permitted to triangulate imaginary highways across impassable mountains, as was evidently done between Las Vegas and Vinita?

As has already been pointed out, the attention of the contract office was early directed to the worthlessness of the route and the utter needlessness of any increase in the service, by means of the letters and reports of those familiar with the needs of the country through which it passed. But General Brady had another and infallible source of information respecting the productiveness of the route, and he did not need to leave the departmental building to obtain the benefit of its light. The total net revenue derived from *all* the intermediate offices on the route from the beginning of the contract term to the quarter ending March 31, 1881, was as follows:

For the year ending June 30, 1879.....	\$794 28
For the year ending June 30, 1880.....	1,068 02
For the nine months ending March 31, 1881.....	1,089 20

But Darlington, as we have seen, depended exclusively upon the inlet via Caldwell and Wichita, Kans.; Fort Elliott received its principal supply by Route No. 32021, from Camp Supply to Fort Elliott; and Fort Reno and Mobeetie were each supplied by two other routes. Deducting the revenue derived from these offices, the total net revenue derived from all the offices which depended exclusively for their mail supply upon this route reached the sum of \$151.65 for the year ended June 30, 1879; \$216.07 for the year ended June 30, 1880; and \$232.49 for the nine months ended March 31, 1881, to offset an annual expenditure of \$150,592.03.

It should also be noticed that this statement of the net revenue derived from post-offices situated on the route covers the period from July 1, 1878, up to the 31st of March, 1881, while the petitions and letters asking for increase and expedition, and setting forth the marvelous growth of the country, were circulated late in 1878 and early in 1879. Meanwhile twenty-four months have passed by, allowing that period for development. Now come the cold, impartial figures of the previous page, the record evidence of the Department, reducing the hyperboles of the contractor to the test of fact. When the increases were ordered,

the causes against such action were still stronger. In attempting to justify his conduct to Congress General Brady published the recommendations, prepared by the contractor and signed by many respectable men, who knew little or nothing about the matter, but carefully withheld all actual information.

I have already quoted at length from the letter of Mr. Blythe, then postmaster at Vinita, Ind. T., dated January 12, 1879, exposing the uselessness of this route. Having a curiosity to learn why he left the service, I sent to the appointment office of the Post-Office Department for the information. He was made postmaster at Vinita December 29, 1876, and removed April 30, 1879. The record comprises:

1st. An undated petition from 15 citizens asking for his removal on the ground of inefficiency and neglect of duty.

2d. A report from Post-Office Inspector Schaurte, dated January 27, 1879, saying that there is no foundation for the charges.

3d. A petition from 40 citizens asking for his retention.

4th. A letter from General Brady to First Assistant Postmaster-General Tyner, dated April 21, recommending his removal for "gross neglect of duty in making out and forwarding registers of arrivals and departures," &c. The official who could not be used by the conspirators was summarily dismissed. Truth-telling came near being a capital offense.

On the 22d of April, 1880, Mrs. Margaret Lackey, postmaster at Red River Springs, San Miguel County, New Mexico, wrote to the Postmaster-General, inclosing a copy of a letter from E. W. Parker, asking her to "connive (?) with him to change the mail route and the manner of delivery at (that) office, by offering me (her) a bribe of \$15 per month for myself (herself) and \$15 per month for my (her) son, who is a child twelve years of age." She asks to be relieved from "all future annoyances from this man." Strange to say, in 1881 Mrs. Lackey was still postmaster.

In the spring of 1881 Inspector Edward E. Boyd made a personal investigation of the route, and his report is dated June 15, 1881. With his report he forwarded to the Department statements from postmasters and others showing the uselessness of the route. E. W. Warfield, esq., superintendent R. M. service, gives reasons to show why Route "No. 32024 is not nor ever has been of any practical utility so far as forwarding mails from the eastern terminus is concerned."

On June 10 George A. Montgomery, postmaster at Mobeetie, Texas, pronounces the eastern end of the route "of little or no value." From his office nothing is sent for points beyond Darlington, and very little for that place.

George E. Reynolds, postmaster at Darlington, June 10 reports that for three consecutive trips each way, beginning June 2, he handled five letters and two postal cards. Several times the pouch contained nothing but the mail bill. June 3 the postmaster at Darlington says he can see no necessity for the existence of the route from the Sac and Fox Agency westward to Mobeetie, Tex. He recommends the entire discontinuance of the service.

James E. Whitmore, postmaster at Galinas Springs, N. Mex., in an undated letter (written probably in June, 1881), reports that no mails were sent to Chaperito for seven months during the season just past. He claims that orders to that effect were sent by the Department to the postmaster at Las Vegas.

In his report Mr. Boyd exposed the uselessness of the route, and recommended extensive curtailments. On the 30th of June, 1881, Gen-

eral Elmer, then Second Assistant Postmaster-General, from July 11, 1881, discontinued all allowances for expedition, amounting on three trips per week to \$40,429.88 a year, and wiped out entirey extensive parts of the route, restating also the distances. Previously, from May 1, 1880, the service had been reduced to six trips a week, and from August 1, 1880, further reduced to three trips a week.

Q. Now that you have refreshed your memory in regard to the facts in this case, can you inform the committee whether you made a similar statement before the Mitchell grand jury?—A. Well, I cannot remember at all how much I did state to them. I know I was before them a very short time.

Q. Did you give them as full and clear an explanation of that case as you have given this committee this morning?—A. I naturally would not, for the reason that they interrupted me considerably with questions, and I was in a hurry, and it was rather an impatient body.

Q. Mr. Bliss was there, was he not?—A. He was there.

Q. Did he know all the facts that you have testified to this morning, and put them before that grand jury?—A. Really, I cannot recall. The only thing I can recall is that I was before them a very short time and went hurriedly over some of these things, how much or how little I cannot say. I know that before the Wilson grand jury we went over everything carefully and patiently.

Q. But you did not do so before the Mitchell grand jury, and in this case especially?—A. No, sir. It was gone over in a very different way. But I was responsible in the other case. That is, they called me in, and I felt the responsibility in a degree before that grand jury.

Q. But in this case Colonel Bliss had the data with which you have refreshed your memory this morning?—A. Yes, sir; these are the papers that he had.

Q. Did he, in your presence, call the attention of the grand jury to those facts and state that they could be all proven by competent testimony?—A. Well, he had numbers of other witnesses usually.

Q. In this case, I mean?—A. As I told you, I have no recollection positively of what we did there.

Q. This was a very important case, was it not?—A. I looked upon this as the strongest single route we had, and of course it has been enormously strengthened by the evidence prepared on the ground, which we should have had on the trial. If I had been responsible for this I should have stuck to that grand jury a week if necessary, until I made them understand those facts; that is, if they permitted me.

Q. But you did not stay with them a week?—A. I was not responsible.

Q. I understood that you did as Colonel Bliss directed you?—A. Exactly.

Q. And you answered all the questions he put to you?—A. Everything.

Q. When the grand jury failed to indict on this Vinita and Las Vegas route, did you understand why they failed?—A. No, sir.

Q. Did any fact occur to you at that time which might explain it?—A. Well, it was almost simultaneously that an arbitration was announced. I hardly gave a thought to it. It occurred to me in a cursory way that the Government had decided to arbitrate these matters rather than prosecute the cases criminally, but beyond that I never gave it a thought. It was none of my business.

Q. You did not see any serious effort in that Vinita and Las Vegas route to find an indictment?—A. Well, that is a matter I am not com-

petent to testify to, because I was before the grand jury but a very short time.

Q. Well, for the time you were there you did not see that Mr. Bliss was making a very labored effort in this case?—A. I could not say that. He was responsible for the case. He was presumed to know just what he wanted me to testify to, and I was not presumed to know, and I did not know, what he proposed to put in by other witnesses.

Q. Assuming the facts as you have stated them here to-day on the Las Vegas and Vinita route, if those facts constitute an indictable offense, upon whom did the responsibility rest of procuring those indictments before that grand jury?—A. Mr. Bliss assumed the responsibility of putting the evidence before them.

Q. And of course the evidence was what the case rested on?—A. Yes; but when it comes to the responsibility for the failure to indict, I do not know whether it would rest with the man who put it before them or with the grand jury. The grand jury might be perfectly honest perhaps in disregarding that evidence and failing to indict.

Q. Well, so far as your action went, did you do everything in your power, under the direction of Colonel Bliss, to bring these facts before the grand jury?—A. I should say so.

Q. Then if these facts were not brought before the grand jury they were accessible to the grand jury through your instrumentality?—A. Everything that is in this paper was before them.

Q. And the witnesses themselves were accessible?—A. Well, Colonel Carey was here in the city. He was a very important witness as to the distances, and Mr. Boyd had been over the line, and he was here; Mr. Parrish always notified me whenever he left the city, in order that he might be ready to return if he was called upon.

Q. Now you have stated somewhat in detail the facts in regard to the Las Vegas and Vinita route. State whether that abstract is a sample of the abstracts of evidence which you furnished in the other routes?—A. The abstracts in the other cases were much more complete than this.

Q. In how many routes did you furnish more complete abstracts than this?—A. When I say more complete, I do not mean that they cost more work, because I put more labor into this than into any other abstract I prepared; but that was because I had to dig out a great deal of it myself. For instance, I had to guess what papers I would find in the topographer's office, and I went there and found them. I had to find out myself from the files of the Department, without any help from inspectors, that these distances were all fictitious. But some of the abstracts which would be technically much more complete were only five or six pages long.

Q. I am only asking you now as to the number of cases in which you furnished abstracts similar to this.—A. I have made out a list of all the cases upon which I prepared abstracts.

Q. Have you got that list with you?—A. I have. I made it up from my letter-press copy-book. Here it is [producing the paper].

Q. Now, in all of these routes on this list you furnished evidence to Colonel Bliss which he might have put before the grand jury?—A. Yes; but in some of these routes the evidence was slight.

Q. It was of varying degrees of strength, of course?—A. This last part refers to my examination of witnesses, and these were appendices that I made on the routes that were embraced in the indictments that were tried.

Q. How many routes were embraced in that memorandum?—A. There seem to be 39 here that I have not counted in; I counted about 43, be-

cause there may have been some that were continued. Evidence came in at different times, and where it did I added it in appendices.

Q. Then these 43 routes were carefully investigated and abstracts of the evidence that can be furnished in each case were put in the hands of Colonel Bliss?—A. I turned all those papers over to him; that is, they were under his control.

Q. Now, in how many of those routes were indictments found?—A. Of these that I worked up there were about 19 of the Dorsey routes. I think there were two dropped out afterward: Saguache to Lake City and Dalles to Lake View. In the latter route the overt act on which they relied had been barred by the statute of limitations.

Q. Did the nineteen routes embraced in the Dorsey combination constitute one case?—A. They constituted one case.

Q. So that there was only one indictment?—A. There was an indictment found on the San Antonio and Corpus Christi route, and that also included the route from Monroe to Shreveport.

Q. Were there any indictments found against the Parker combination?—A. No, sir. This Vinita to Las Vegas route belonged to the Parker combination.

Q. Or any against the Salisbury combination?—A. None against the Salisbury combination.

Q. Were there none against Patrick?—A. There was a man named Patrick who had the route from Rock Creek to Etchitas.

Q. Was that one of the routes investigated?—A. Yes, sir.

Q. Was an indictment found on it?—A. There was none against him.

Q. Did you go before the grand jury and testify in any other cases than the nineteen routes of the Dorsey combination and the Vinita to Las Vegas route?—A. I know I was before the Mitchell grand jury more than once; and I was before them but once on the Vinita to Las Vegas route; but what I then testified to I do not remember.

Q. Do you remember that you testified on any of the Salisbury routes?—A. I cannot say whether I did or not. There were four of the Salisbury routes presented to the grand jury. Of those I worked up two—Silver Bow to New Chicago and Solidad to New Hall; and Mr. Blackmer prepared the evidence in the two other routes.

Q. Can you explain why it was no indictments were found against the Parkers and the Salisburys and Sanderson?—A. I cannot.

Q. Were those the chief beneficiaries of expedited routes?—A. The Salisburys received a great deal of money; and the Parkers received a good deal. I will say of the Salisburys that when I came to examine the files in their cases I was a little surprised at the weakness of the record evidence; they seemed to have done their work in anticipation of future trouble. For instance, this man McDevitt, with regard to whom I testified yesterday, was the contractor on five of their routes. He made the affidavit for expedition; he did all the seemingly fraudulent work, and yet he was a mere dummy; he was put forward, and the Salisburys did not appear upon the record until after all this work is done.

Q. Was McDevitt the witness who would have testified against the Salisburys?—A. He was.

Q. That was the main witness that you should have relied upon against the Salisburys?—A. He was the witness I should have relied upon to break into the Salisburys combination, and show their method of doing this business.

Q. And the Government took that witness and sent him to the penitentiary?—A. That witness went to the penitentiary. But I went

through numbers of their routes where I expected to find a great deal of evidence of rascality, and from the moment they appeared upon the record, and the evidence failed. Now, I have not reached that point where I can build up houses without material. You see these cases are prepared by digging out the frauds from the records, and where the evidence fails the process fails.

Q. Colonel Bliss spoke about the papers upon the Salisbury routes being abstracted.—A. Yes, sir.

Q. What do you know about that?—A. I have never got hold of any evidence to show that any of them were taken. I only know that the files were very bare of them. I was the first person of those now in the service who handled them, and we were surprised at the bareness of the files.

Q. You stated yesterday that McDevitt was promised that he should not be prosecuted if he gave this information.—A. The promise was made to me, not to him. That was a point upon which I insisted on the most rigid understanding.

Q. Who authorized you to make this statement to McDevitt, that he should have immunity?—A. I never made any such statement to McDevitt.

Q. What did you say?—A. I told him if he could trust me to go ahead; and he did trust me. I think the implied obligation under which you come in listening to a man's statement is the very highest obligation you can assume, because it is an obligation of honor.

Q. You, of course, could not have made that promise without some assurance from higher authority?—A. Oh, I talked about it with Postmaster-General James repeatedly before that, and also with Attorney-General MacVeagh, because that was a point upon which I determined to have an understanding before I obtained any information from anybody.

Q. With whom did you have that understanding?—A. With Mr. James principally, and also with Mr. MacVeagh.

Q. But after Mr. James went out and the new Attorney-General came in your understanding with McDevitt was not carried out?—A. It was not carried out. The implied obligation under which we came was disregarded.

Q. And that destroyed the only witness you could have relied upon for evidence against the Salisburys?—A. Well, we should have had to take the Salisburys not in one group, but in a number of groups.

Q. Would he not have been a material witness?—A. Yes; on those routes where he was the contractor, because he explained the methods. His testimony would show——

Q. Did you take his testimony?—A. Yes, sir; I have got his affidavits.

Q. What would his statements have shown?—A. I gave the substance briefly yesterday. They would have explained the Salisbury methods of doing business through dummies, and only appearing on the record after the oaths were made, although on some routes they did make the oaths.

Q. In your judgment was there sufficient evidence with McDevitt's testimony, to cause indictments to be found against that combination?—A. I do not think either of them were ever presented to the grand jury. They presented other cases which Colonel Bliss considered stronger. There were cases against the Salisburys, perhaps, where they appeared on the record throughout, I think on the Chicago to Silver Bow route, they were the contractors of record. I think Colonel Bliss selected cases which were free from these complications. The point I make is simply

this: That their service was broken up into different groups and it all could not have been embraced in one indictment; but I presume that Mr. Bliss—that is, I have no reason to doubt it—selected the cases which in his judgment were the strongest. I know that route from Chicago to Silver Bow was a pretty strong case. If he had taken the McDevitt cases we would have been thrown back upon his solitary testimony, and fighting a combination as strong as that it would be very uncertain to rely upon any one man.

Q. Can you explain the oaths that were taken in order to cause the expedition to be made?—A. I have got a lot of them here on the Dorsey routes. You ought to have them lithographed if you want to make your report complete. We proved that all those oaths were kept in stock. Some were made in blank by Mr. Peck out in New Mexico; some were made in blank by John W. Dorsey up in Vermont; and when they wanted an oath they would go to these blanks, and fill them in to meet the exigencies of the case. That is what we proved in court. Those papers were the sole measure of the cost of expedition. No other evidence was furnished, except these oaths. For instance, that expedition, costing ninety and odd thousand dollars a year, on the Vinita and Las Vegas route, was based entirely on the oath of the contractor. Of course, behind that were petitions and recommendations of members of Congress, but there was no evidence to show that these oaths were correct. We put on witness after witness with regard to the efforts made to obtain facts from them, and we never heard that the contractors ever consulted a single man on the road to get correct information. The number of men and animals is the essential point, and that is in these oaths. These oaths took hundreds of thousands of dollars out of the Treasury.

Q. There must have been a trade carried on in ready-made affidavits?—A. Yes, sir; here is one that I wish to call special attention to. I will read it:

SIR: The number of men and animals which are necessary to carry the mails on route 41119, seven times a week, on the present schedule, is three men, six animals. The number necessary to carry the mail on said route on a schedule of thirty-three hours, seven times a week, five men eighteen animals.

Yours, respectfully,

JOHN M. PECK.

Hon. THOMAS J. BRADY,
Second Assistant Postmaster-General.

That purports to have been verified in the county of Colfax before a notary public, J. S. Taylor.

Now, you will see what that statement leads to. The advertised route was 132 miles. The actual length was 120 miles, the schedule 60 hours. There were 240 miles of daily travel. There were three men and six horses to do it on the original schedule. Six horses traveling 240 miles would have to go 40 miles a day. Each horse would have to travel 40 miles a day every day in the year. There are only three men. Each man would have to travel 80 miles a day. But the speed was two miles an hour, so that each horse would have to travel twenty hours and every man forty hours a day on that schedule.

Mr. CRISP. They proposed to lengthen the days, probably, as well as the routes.

The WITNESS. That shows the carelessness with which the statements were prepared.

By the CHAIRMAN:

Q. They were what might be called machine affidavits?—A. They

were kept in stock, as I said before, and that was proved in court; and you would know that from the appearance of the papers.

Q. Did I understand you to say that Mr. Dorsey had any interest in this Vinita and Las Vegas route?—A. No, sir; I said there was some evidence to show that he originally took an interest in it.

Q. A pecuniary interest?—A. Not a pecuniary interest, but a personal interest. The offices of Hayes and Tacosa and Wheeler were established early; perhaps before the route was let. At all events they were established quite early. I was told that, but I could not find anything in the papers except the fact that he was instrumental in having those offices established to indicate that he had anything to do. He had nothing whatever to do with the contract so far as appears from any of the papers, and there was no reason to think he had anything to do with it any way.

Q. What do you know with regard to the remission of penalties on route 40101?—A. That is the route from Santa Fé to Prescott. Here are the papers upon which the penalties were remitted. The first one is quite immaterial, but it will give the amounts:

WASHINGTON, D. C., *June 15, 1881.*

SIR: Referring to the deductions made by the inspection division of the Post-Office Department on route No. 40101 for the quarter ending March, 1881, and amounting to the extraordinary sum of \$671.07, I would most respectfully represent that the said deductions, together with the fine amounting to \$2,430.24, are most excessive and oppressive to say the least, if indeed there be any reason whatever for imposing either a fine or making deductions, when the difficulties that lay in the way of performing the service are considered.

The past winter has been one remarkable for its severity, and nowhere was its extraordinarily severe character felt more than on the line of this long frontier route, sparsely inhabited and with no vehicles other than the mail wagons passing over it. Consequently my wagons, at great loss of time, no sooner broke a road through the snow than it drifted back again, making the same work necessary by the following wagon. In addition your attention is called to the fact that the Atlantic and Pacific Railway in constructing its track selected for its road-bed the beaten or traveled wagon-road proper, and as a consequence my mail wagons had to make long detours which partly added to the difficulties already caused by the elements.

When it is considered that sixty or seventy miles of this road leads across the Mogollon range of mountains, where the snow at times drifted six or seven feet high, during the months of December, January, February, and March, thereby not only rendering it impassable but absolutely dangerous to life, the wonder is that I was enabled to get through at all. It was utterly impossible for days at a time to make the passage of the range, as I have been informed by my agent. During all those delays caused by the elements it must be borne in mind that my expenses were in no wise diminished, but, on the contrary, rather increased, in that damage was done my stock, and in other ways needless to recite. The schedule of time on this route is one of the fastest known to the region, and that over a road which in the best of weather is conceded to be one of the worst (length being considered), if not the worst, over which mail service is performed.

Touching the matter of a fine amounting to \$2,430.24, I have to say that there was no abandonment of mail on the part of my agents, and no failure to provide "proper celerity" for the same. When it is remembered that the Atchison, Topeka, and Santa Fé Railway, with which my road connected, failed to arrive at Albuquerque for three and four days at a time during the quarter ending March, 1881, it can be readily understood that the accumulated weight of mail for these days, together with the snow-covered condition of the road, might add to the difficulties of a condition already sufficiently harassing from causes over which we had no control; that there might have been slight delays in delivery of second and third class matter, under all those circumstances is more than possible; but that there was such failure to provide "proper celerity" as to warrant the imposing of a fine of 10 per centum of my pay, therefore, I most emphatically deny. When by reason of drifted snow, &c., it became a physical impossibility to make way with the wagons, men were sent along on horseback and pack horses with the mail; this method continued until it, in its turn, at times, had to be suspended. If mails, under these circumstances, were temporarily made to wait it certainly was no fault of my agents. I cannot avoid thinking that a consideration of all these facts and conditions, instead of lending reasons for imposing fines and mak-

ing deductions, will rather tend to a remission of the excessive ones that have been made. In conclusion, while it may appear superfluous, I will take occasion to state that on my part there has been at all times a disposition and determination to live up to the terms of my contract with the Government. I have sought faithfully to perform the service, and for that purpose put forth my best energies. There never has been any attempt or disposition on my part to secure any but proper registers or reports from postmasters. Service has been actually performed unless when causes intervened over which we have no control. It is not charged, or even intimated, so far as I know, that I made false affidavits to the number of men and horses required for the expedited service, hence I respectfully submit to your careful consideration the facts as hereinbefore recited, and pray for such relief as you in your judgment may deem just and equitable.

Yours, respectfully,

J. A. WALSH.

Sworn to and subscribed before me this 1st day of June, A. D. 1881.

W. C. DUVALL,
Notary Public, D. C.

Hon. R. A. ELMER,
Second Assistant Postmaster-General, Washington.

[Indorsement.]

WASHINGTON, D. C., January 21, 1881.

Respectfully referred to Hon. A. A. Freeman, Assistant Attorney-General Post-Office Department, in connection with case of deductions, route 40101.

R. A. ELMER,
Second Assistant Postmaster-General.

But the reasons given in this affidavit amounted to nothing, so far as we were concerned. This is the affidavit which embraced the reasons on which we acted:

WASHINGTON, June 30, 1881.

SIR: Referring to my affidavit of June 1 concerning the matter of remission of fines and deductions on Route No. 40101 for quarter ending March, 1881, I would beg leave to furnish the following additional facts, all of which I think are pertinent to the issue.

I will premise my statement by saying that I became contractor on Route No. 40101 by reason of the fact that the contractor, George S. McDonough, and his partners, J. J. Hinds *et al.*, owed me a large sum of money which I advanced them, as a banker and lender of money, to equip this and other routes. Being unable to pay me, the contractor of record, McDonough, turned me over the service.

The record of the post-office inspector discloses the various changes that occurred. In good faith and at great expense I equipped this road and stocked it with better animals than had ever been on a stage route in the Territories, but at the outset I was met with every obstacle and so continued until the discontinuance of my contract. In my affidavit of June 15, 1881, I referred to the great difficulties that I had to encounter during the quarter ending March, 1881, because of the snow-storms that then prevailed. In corroboration I refer you to the report made by Post-Office Inspector R. B. McGaughey, who as late as March 17 or 18, 1881, refers to snow on the Mogollon Mountains, as being 5 feet deep and drifting as high as 6 and 7 feet, relates how he and the mail driver were lost in a blinding snow-storm for eight hours. What must it have been in the month of January and February? I assert that there was no lack of men and horses to carry the mails, but when railways are three and four days behind time, owing to the elements, it seems to me some excuse might be found for overland mails coming in behind time.

As illustrative of the difference in views regarding roads and their condition, I will call your attention to the fact that while the postmaster at Prescott said the road was never in a better condition Agent McGaughey reports at the same time that snow was five feet deep, and that he lost his way for eight hours in the blinding snow-storm. It is possible that these reports of so adverse a character may have been the result of a conspiracy against me, with a view of getting possession of my contract. This, in the light of events, I verily believe and depose to be the fact, and am satisfied that the head and front of this conspiracy was Thos. J. Brady, late Second Assistant Postmaster-General.

In the first part of the month of December, 1880, I was told by Brady that I had better settle with J. J. Hinds in order to avoid scandal that he (Hinds) would inevitably make. To this I demurred, and the subject was dismissed. In the latter part of December Brady, in referring again to the subject, gave it as his opinion that

I had better dispose of my contract to some person or persons who would take care of Hinds, otherwise trouble was imminent from Hinds because of my refusal to pay him (Hinds) a large sum of money. I responded that I was quite willing to dispose of my contract, all I wanted was something approaching the sum of money that I had invested. About this time I was approached by Judge Lilley and George F. Brott, who addressed me on the subject of disposing of my road, Route No. 40101. A great deal of discussion ensued between us as to the amount of the consideration to be paid me. To be brief, we disagreed on this point; our views were radically apart. I declined their offers. Various efforts in different ways were made to induce me to dispose of the contract, to all of which I objected, because I would be losing too much money in accepting.

I have since heard and believe that at this stage of my obduracy Mr. Brady informed Judge Lilley that I was to be let alone, and that "he (Brady) would deal with him, and that Walsh in a short while would be very glad to sell at any price." During the month of January, 1881, I went to New York, and from that place, on the 25th of January, 1881, asked permission from the Department to sublet Route No. 40191. The request was granted; not, however, without Brady's inquiring by telegraph to whom did I wish to sublet? This was a laudable thirst after knowledge unusual. On the 27th of January, 1881, permission was given me to sublet; but remarkable rumors began to circulate as to the intentions of the Department touching this road, which rumors, to say the least, were not calculated to be reassuring to any outsider who might think he wanted the route. I went on with my efforts to sublet the road, carefully avoiding, however, going to any of the old contractors, for the reason that they might deem me too anxious to dispose of the route.

On the 24th of February, less than one month after giving me permission to sublet, Mr. Brady revoked the said permit, and on February 28, four days after said revocation, ordered Post-Office Inspector R. B. McGanghey to inspect and report en route No. 40101. Why was the permission to sublet revoked?

Did my refusal to write a letter exonerating Brady from charges made against him have anything to do with this revocation, and the order to have route No. 40101 inspected?

In the first part of February, 1871, J. J. Hinds, through counsel, addressed a communication to Hon. Charles Devens, then Attorney-General of the United States, in which was set forth grave charges against Tho. J. Brady, then Second Assistant Postmaster-General, and, in substantiation of said charges, Hinds cited myself among four or five others as being competent witnesses to prove the truth of the charges. This letter, as I understood, was referred by Mr. Devens to the Post-Office Department.

At this juncture I was applied to in the *interest* of Brady to write a letter addressed to him, denying the statements made by Hinds in his aforementioned letter to the Attorney-General.

I was informed that the other gentleman named by Hinds was either going to do this or had already done so. I declined writing the letter. On the 24th of that same month, a few days after my refusal, Mr. Brady *revoked* the permission given me to sublet, and on the 28th of February (same month) addressed Post-Office Inspector R. B. McGanghey to inspect the route No. 40101. On the 9th day of the following month of March, 1881, there appeared in the New York Times an affidavit made by J. J. Hinds, which, although published on that date, had been made apparently on the 1st of December, 1880. On the 10th day of March, 1881, there appeared in the columns of the National Republican, of Washington, D. C., letters of denial from all the gentlemen named by Hinds (except myself) in his letter and affidavit as having a knowledge of the facts which he alleged therein. On the 24th day of March, 1881, I was summarily and without any hearing declared a failing contractor on route No. 40101. When he thus declared me a failing contractor he had not yet heard from Agent McGanghey. Agent McGanghey made, on the 25th of March, 1881, a report, in which he certainly does not indicate abandonment of the service on my part.

In this report he finds fault with the service, a condition of things which existed, no doubt, everywhere over these long frontier routes, but nowhere in this report could Mr. Brady find ground for his arbitrary action. The facts of the case are simply that Second Assistant Postmaster-General Brady had determined to break me down, for the reason that I was not willing to be subservient to him. I respectfully submit that it is unjust and oppressive to subject me to fines and deductions when the difficulties of this situation are considered.

The fine, amounting to \$2,430.24, is so manifestly unjust that I feel satisfied of its entire remission. This fine, it will be remembered, is in addition to heavy deductions made on a basis that no one knows anything about. A fine could only be justified as a penalty for some gross criminal act of negligence amounting to a willful destruction of mail matter, which is not charged by any person. No complaint came from the people along the line of the road as to their mails being lost or destroyed, as regards the delay in prompt arrivals on schedule time of the mails. I again reiterate the dif-

difficulties as being of such a character as to preclude that exact efficiency which might be hoped for, was there no snow-storms or other natural causes to interfere.

In conclusion, I must respectfully suggest that it is very difficult for a contractor to perform service on a road whereon the Second Assistant Postmaster-General of the United States is determined to cause him to fail. It is possible that an opposition so potent might even have influence enough to color reports of subordinates.

Yours, respectfully,

JOHN A. WALSH.

Sworn to and subscribed to before me, this 30th day of June, A. D. 1881.

W. C. DUVALL,
Notary Public, D. C.

R. A. ELMER,
Second Assistant Postmaster-General.

[Indorsement.]

POST-OFFICE DEPARTMENT,
Washington, D. C., June 30, 1881.

From examination into the facts of this case we are fully satisfied that the conspiracy alleged within actually existed, that it proved a great damage to the contractor, and broke up the service of the route. In view of the injuries he sustained in consequence, we agree in this opinion that the fine and deductions should be acquitted.

A. M. GIBSON,
P. H. WOODWARD,
Post-Office Inspectors.
A. A. FREEMAN,
Assistant Attorney-General.

Q. Did any one else see this recommendation except those who signed it?—A. We took the responsibility of it.

Q. Did you show it to Colonel Cook?—A. I think we did; I don't remember.

Q. Or to Colonel Bliss?—A. This was before Mr. Bliss came into the cases. Colonel Cook was in the cases. To go back a little, Mr. Walsh refused to contribute \$8,000 assessed against him to influence the action of Congress when that appropriation bill was pending. An order was made curtailing his route at Albuquerque, but instead of reducing it 35 miles in length, the proper length, it was reduced 80 miles, which was a great hardship. That order was subsequently modified so as to reduce it 50 miles; and from the parties that were engaged in the business I have learned that two combinations certainly were after the route at that time. The Department remitted those fines to Mr. Walsh because he had been broken up by the action of the officers of the Government.

Q. Did you explain these matters fully to Mr. Freeman, the Assistant Attorney-General?—A. Well, Mr. Gibson and I rather took the responsibility of it.

Q. Mr. Gibson examined it himself, did he?—A. Yes, sir. Subsequently Colonel Cook and Mr. Gibson were very anxious that the one month's extra pay should be allowed, and both of them joined in a letter to the Second Assistant Postmaster-General asking it.

Q. Was that in addition to this remission?—A. Yes; that came on afterwards. They were the lawyers in the case and were both very urgent about it. Now, when this was done I do not know whether I talked with Walsh or Gibson or both—I think both; though Walsh said that I never talked with him about it afterwards, but Walsh expressly, either personally or through Gibson, made a waiver of the one month's extra pay. This was all we could do under the law. The law does not contemplate that post-office officials are going to conspire to break down contractors. I told Mr. Lyman, who was Acting Second

Assistant Postmaster-General most of the summer, that that extra month's pay was waived. He insisted that a written waiver should be put on the files; and that waiver was put on the files. A waiver was put on file, but afterwards it was found not to be for the extra month's pay, but a waiver of any claim for any pay after a certain date, a different thing from what I had reported. Mr. Lyman was very much opposed to allowing the extra month's pay, and Mr. Gibson was very anxious it should be allowed. I came back from Connecticut and Mr. Gibson from New York, and it was found then that Mr. Lyman had peremptorily refused to make this allowance. Colonel Cook asked me to go and get this letter for him, and I did so, and he destroyed it. I am not certain but Walsh has a claim for that one month's extra pay. I am not questioning at all the propriety of their action in the matter.

Q. Did Mr. Gibson and Mr. Cook recommend this remission of fines and penalties?—A. Mr. Gibson recommended it; I do not know that Colonel Cook did. But of course in recommending the allowance of the additional month's pay he would, in a general way, take the ground that the remission was right. The recommendation of the pay was an entirely subsequent transaction.

Q. You say that Colonel Cook did recommend the additional month's pay?—A. He did.

Q. In the letter which you saw?—A. Yes, sir; in the letter which I saw, and which was in the Department, but which was withdrawn by him when Mr. Lyman peremptorily refused to allow it.

Q. Did Mr. Lyman refuse to allow it?—A. Yes, sir; he was indignant that after it had been waived, as he thought, and as I had reported to him, the claim should be renewed.

Q. Did Walsh make any demand for this remission in consideration of his appearing as a witness in the case?—A. Never.

Q. Did he make any demand for an extra month's pay as a condition precedent to his appearing before the grand jury?—A. Never, sir.

Q. Not to you?—A. Never, sir; to me or to any one, that I ever heard of. If he did I am not aware of it.

Q. This remission, then, was granted upon the merits of the case, as presented in his affidavit?—A. And upon what information we had besides. We were thoroughly satisfied that the conspiracy existed.

Q. You were thoroughly satisfied that he was required by Brady to exonerate him from some charge, and he refused to do so?—A. There were two grounds for it. In the first place, his refusal to pay the assessment of \$8,000 for the fund to push through that appropriation. His refusal to pay that was the beginning of the trouble.

Q. Who assessed that against him?—A. If you want to get additional evidence you will have to ask Mr. Lyman. It is a matter of common notoriety that such an assessment was made, and that Mr. Walsh refused to pay—

Q. Did Walsh say that Mr. Brady had anything to do with making that assessment?—A. Mr. Walsh said that the paper was brought to him by Chase Andrews, a contractor there, and I have known, in a general way, as one finds out who is in the focus of an investigation like this, that there was more or less feeling against Walsh for refusing to contribute to that fund.

Q. When was that?—A. That must have been in 1880; one of Price's affidavits relates to his contribution to that fund.

Q. How much did he contribute?—A. I think that it was \$2,500 in cash, or \$2,500 in postal drafts. Walsh refused to do that, and then subsequently—

Q. One moment. What did you learn was done towards raising a fund from these parties?—A. What I know about that I know in a general way. There was a fund raised.

Q. What did you learn as the bottom facts?—A. Well, I should not want to testify to matters which I know so indefinitely.

Q. But here was a case in which Walsh was being squeezed out of the service?—A. Yes.

Q. And he alleged that it was because he had refused to contribute a certain sum to be used to corrupt Congress?—A. Yes, sir.

Q. What time was that?—A. That was the time when Mr. Brady called for the two millions, but finally got \$1,200,000. It was in the Forty-sixth Congress.

Q. Walsh was the contractor on this route?—A. Yes, sir.

Q. And they desired him to contribute \$8,000?—A. Yes, sir.

Q. And he declined to do so?—A. He declined to do it.

Q. He was then embarrassed?—A. I think his embarrassment began after that.

Q. He was declared a failing contractor, was he not?—A. No; he never was declared a failing contractor.

Q. Well, he so states.—A. Well, it was something that he would understand as equivalent to that, but technically he was not a failing contractor.

Q. Here is what he says:

On the 24th of March, 1881, I was summarily and without a word of warning declared a failing contractor on route 40101.

A. I don't know about that. I think that is a misapprehension of his. I will read the order that was made in that case:

From March 24, 1881, curtail service so as to end at Fort Wingate, decreasing the distance 150 miles, and deduct from contractor's pay \$38,005.43 per annum, being pro rata; and it being reported that the contractor has failed upon the remainder of the route, the question of one month's extra pay upon the discontinued portion is reserved for further consideration.

Who made that order?—A. That must have been made by Mr. Brady or French. It was made during Mr. Brady's administration. But after Walsh's refusal to contribute, Mr. Hinds printed this affidavit in which he called upon a number of witnesses. They all put in disclaimers except Mr. Walsh, and he refused to do so. I talked with Mr. Lilley, who was engaged in this scheme, and he told me all about the interviews with Brady and the scheme to break up Walsh in this route. There is no doubt in my mind—not a particle—of the existence of that purpose and that scheme, and it was really on the ground that, so far as this transaction was concerned, the fault rested primarily with the Government that the remissions of fines were recommended.

The CHAIRMAN. I have a telegram from Colonel Cook, saying that he desires to cross-examine you with regard to your testimony of yesterday. He is in Philadelphia. I do not know the points to which he would direct his cross-examination. Possibly he may desire to have you return for that purpose.

The WITNESS. I know one thing, that I have not told anything but the truth here; and I have not told all the truth. That is, if I had told you what has come to me confidentially, I could have told you a great deal more than I have told, but I do not break confidences even to expose the villainies of rascals. The more Mr. Cook stirs this matter up the deeper he will get into the mire.

WASHINGTON, *April* 11, 1884.

R. W. WEBB sworn and examined.

By the CHAIRMAN :

Question. Please state your residence.—Answer. I reside at Golden, N. Mex.

Q. State when the Atchison, Topeka and Santa Fé Railroad was completed to Trinidad, Colo.—A. To the best of my belief it was completed there in 1878; I know I landed there on the road in 1878, and I went from there by stage to Las Vegas.

Q. What part of the year was that?—A. I got there in November; I think on the 1st of December I went from there to Las Vegas, and went over the old Santa Fé trail by stage.

Q. And the railroad has since been built on to Las Vegas and the South?—A. Yes, sir.

Q. State whether the old Santa Fé trail, which is practically covered by the Atchison, Topeka and Santa Fé Road, was not the main route for western travel for a great many years.—A. It was so considered.

Q. And this railroad is practically parallel to the expedited mail-route known as the Las Vegas and Venita route?—A. Well, yes; I should think it would be.

Q. State whether to your knowledge Senator Dorsey was interested in the Las Vegas and Venita route. If you know of any facts which would show his interest one way or the other, please state them.—A. I was publishing a paper in Las Vegas in 1879—I think it was in July, it might have been a little later, but it was somewhere along there—and Mr. Dorsey came to me and explained to me this Venita and Las Vegas route and the manner in which it had been expedited, and he characterized it in very strong language as a fraud and an outrage upon the people, and asked me as a newspaper man to ventilate the matter. I took the facts, figures, and statements that he gave me and made up an article in regard to it.

Q. Was it not generally understood at the time that that route was a fraud?—A. No, I think not; I think it was looked upon as a route of service, but of course there were a few who understood about it.

Q. Senator Dorsey knew what it was?—A. Yes, he knew what it was, and came to me without any solicitation on my part and gave me this statement.

Adjourned.

WASHINGTON, D. C., *April* 16, 1884.

HENRY D. LYMAN sworn and examined.

By the CHAIRMAN :

Question. Please state your age, residence, and occupation.—Answer. My residence is in Ohio. I am thirty-two years of age. I am Second Assistant Postmaster-General.

Q. How long have you been in the postal service of the United States, and in what capacities have you served?—A. I was appointed a clerk of class 1 in November, 1875; a special agent on the 16th of July, 1878; a clerk of class 3 on the 30th of December, 1878; chief clerk of the Second Assistant Postmaster-General on the 26th of April, 1881; Second Assistant Postmaster-General on the 5th of February, 1884, and confirmed February 11, 1884.

Q. State what are the general duties of the Second Assistant Postmaster-General.—A. The placing of all service under contract, the control of railroad and steamboat mail transportation, and the mail equipments.

Q. Then the Contract Bureau of the Post-Office Department is under your supervision?—A. Yes, sir.

Q. Please state whether you were selected as one of the arbitrators on behalf of the United States for the settlement of certain alleged claims against contractors for overpayments to them.—A. I was.

Q. Please state the circumstances of your appointment.—A. An agreement was made between Mr. Bliss, representing the United States, and Mr. R. G. Ingersoll, representing the Salisburys and the Parkers, to submit four routes to arbitration. The arbitrators designated in that agreement were R. G. Ingersoll, George Bliss, or any person he might name, and the then Second Assistant Postmaster-General, Mr. Elmer. Subsequently Mr. Bliss substituted me in his place.

Q. State what duties, if any, you performed in pursuance of that appointment?—A. We never met as a board.

Q. Have you with you here the correspondence which I requested you to bring in regard to the creation of that arbitration?—A. Yes; I have it all.

Q. Please read the letters, then, in chronological order, together with such agreements as you have pertaining to the matter.

The witness produced and read the following:

MR. BLISS TO MR. ELMER.

Bliss & Schley, attorneys and counsellors, 160 Broadway, New York. George Bliss, William T. Schley.]

NOVEMBER 24, 1882.

DEAR SIR: I now inclose to you the original agreement of arbitration made in the Salisbury and Parker cases. I have indorsed on them a substitution of Mr. Lyman

in my place. I remain strongly of the opinion that the cases should be at once proceeded with. Mr. Merrick agrees with me.

Your obedient servant,

GEORGE BLISS,
Special Assistant Attorney.

Hon. R. A. ELMER,
Second Assistant Postmaster-General.

We made no answer to that letter.

MR. ELMER TO ER. HOWE.

POST-OFFICE DEPARTMENT,
OFFICE OF SECOND ASSISTANT POSTMASTER-GENERAL,
Washington, D. C., November 23, 1882.

SIR: I have the honor to transmit herewith a copy of an agreement dated June 7 1882, between George Bliss, esq., special United States attorney, and R. G. Ingersoll, esq., attorney for V. W. Parker, J. W. Parker, and E. W. Parker and others interested with them, in which I am designated in connection with the said attorneys to determine whether the Messrs. Parker, or others interested with them, have received from the United States any money to which they were not entitled for transporting mail on the route from Venita, Ind. T., to Las Vegas, N. Mex. Also a copy of an agreement without date, but of like import, between the same attorneys, touching any overpayments to Monroe and O. J. Salisbury, Luke Voorhees, M. V. Nichols, or some other person or persons connected with the Salisburys, on the route from Wells to Hamilton, in Nevada; Fargo to Pembina, in Dakota; Soledad to Newhall, in California; and Silver Bow to New Chicago, in Montana.

An examination of documents in the possession of the special United States attorney has convinced me that large overpayments have been made on account of service

upon the routes named, and that money has been paid by the Department in consequence of fraudulent representations by these contractors.

Inviting your attention to the provisions of section 4057 of the Revised Statutes, I seek your direction as to my course in relation to these payments in view of the proposed settlement of the cases by arbitration. A copy of a communication on this subject, addressed to me by Mr. Bliss, on the 23d ultimo, is also included.

Very respectfully, your obedient servant,

Hon. T. O. HOWE,
Postmaster-General.

R. A. ELMER,
Second Assistant Postmaster-General.

MR. HOWE TO MR. BREWSTER.

POST-OFFICE DEPARTMENT,
Washington, D. C., November 25, 1882.

SIR: I have the honor to hand you with this a letter from the Second Assistant Postmaster-General, with the inclosures referred to by him. You will notice that General Elmer is of the opinion certain parties referred to in his letter have received moneys for services never in fact performed.

Under section 4057 of the Revised Statutes, the case presented by the Second Assistant seems to be one requiring this office to prosecute. But the cases seem also to be included within the terms of a submission agreed to by the Hon. George Bliss, acting for the Government, and by the Hon. R. G. Ingersoll, acting for the other parties.

It occurs to me that if the submission is a valid one, it will be an answer to any suit that might be commenced against the parties to it. If not valid, of course it is no answer to the suit, nor would the award conclude either party.

I refer the papers to you with the request that you will advise me whether, in your opinion, the submission is valid, and will bind either the Government or the other parties who are supposed to be liable to the Government.

Very respectfully,

Hon. B. H. BREWSTER,
Attorney-General, Washington, D. C.

T. O. HOWE,
Postmaster-General.

(Stamped :) Office of the Second Assistant Postmaster-General, October 24, 1882. Postmaster General.

[Bliss & Schley, attorneys and counsellors, 160 Broadway, New York. Gerge Bliss. William T. Schley.]

OCTOBER 23, 1882.

DEAR SIR: I beg to inclose you copies of agreements made with the representative of Monroe Salisbury and others, and with the representative of V. W. and J. W. Parker, looking to an arbitration of the claims of the Government upon them for money believed to have been overpaid on certain routes.

I informed you of these agreements about the time they were made, and of the circumstances which surrounded them; how we had failed to secure indictments on these routes, and, as the statute of limitation was running against criminal prosecutions, I thought it wise, after consultation, to make the agreements.

It seems to me the time has now come when it is desirable to put them in execution. It is with that end in view that I inclose them to you.

You will perceive that there is reserved to me a right to substitute some one to act in my place. I propose, therefore, to substitute Mr. H. D. Lyman.

I beg to suggest that the way is to serve upon Colonel Ingersoll a notice of the substitution, and, at the same time, a notice of the first meeting of the arbitrators. This will set the matter in motion. If this meets your approval I will prepare the necessary papers.

I hoped to have seen you when in Washington last week and talked these matters over with you, but you left the night I got there.

Your humble servant,

GEORGE BLISS,
Assistant Attorney.

Hon. RICHARD A. ELMER.

It is claimed by the Government that Monroe and O. J. Salisbury, Luke Voorhees, M. V. Nichols, or some other person or persons representing or connected with the Salisburys, has or have received moneys from the Government, to which they were not entitled, on the four following postal routes, namely: Wells to Hamilton, Fargo to Pembina, Soledad to Newhall, and Silver Bow to New Chicago.

It is therefore agreed that the claim of the Government in the said four routes, or any of them, shall be referred to Richard A. Elmer, Second Assistant Postmaster-General, George Bliss, or any one that may be designated by him, and Robert G. Ingersoll, or any one that may be designated by him, to determine whether the said parties, or any one of them, have received from the United States any money to which they, or any one of them, were not entitled, for transporting the mails upon any of the four said routes mentioned.

It is further agreed that the said referees, or a majority of them, shall have full power to decide all questions submitted, and to act on any evidence satisfactory to them or a majority of them; and if they, or a majority of them, find that on said routes, or any of them, money to which they, or any of them, were not entitled has been received, it shall be refunded on demand, or may be recouped by the Government.

If the Government hereafter institutes any other proceedings against the said parties, or any of them, on account of any matters growing out of the said four routes, then this submission shall be void.

This instrument does not affect the ordinary proceedings of the Post-Office Department as to fines, penalties, and stoppings during the pendency of this arbitration.

"Legally" stricken out, and "to which they or any of them were not entitled" interlined before signing.

GEORGE BLISS,
Special United States Attorney.

R. G. INGERSOLL,
Attorney for Monroe and O. J. Salisbury, Voorhees, Nichols, and all others interested with the Salisburys.

In pursuance of the power reserved to me, I hereby designate H. D. Lyman to act in my place and stead under the foregoing instrument.

GEORGE BLISS.

It is claimed by the Government that Virgil W. Parker, J. W. Parker, E. W. Parker, or some other person or persons representing or connected with the said V. W. and J. W. Parker, has or have received moneys from the Government to which they are not entitled, on the following postal route, namely, Las Vegas and Vinita.

It is therefore agreed, That the claim of the Government in the said route shall be referred to Richard A. Elmer, Second Assistant Postmaster-General; George Bliss, or any one that may be designated by him; and Robert G. Ingersoll, or any one that may be designated by him, to determine whether the said parties, or any one of them, have received from the United States any money to which they, or any one of them, were not entitled, for transporting the mails on the said route between Las Vegas and Vinita.

It is further agreed, That the said referees, or a majority of them, shall have full power to decide all questions submitted, and to act on any evidence satisfactory to them, or a majority of them; and if they, or a majority of them, find that on said route money has been received to which they, or any one of them, were not entitled, it shall be refunded on demand, or may be recouped by the Government.

If the Government hereafter institutes any other proceedings against the said parties, or any of them, on account of any matter growing out of the said route, then this submission shall be void.

This instrument does not affect the ordinary proceedings of the Post-Office Department as to fines, penalties, and stoppages during the pendency of this arbitration.

GEORGE BLISS,
Assistant United States Attorney.
R. G. INGERSOLL,
*Attorney for V. W. Parker, J. W. Parker, E. W. Parker,
and all others interested in said route.*

JUNE 17, 1882.

(Stamped:) Post-Office Department, December 29, 1882, Office of the Postmaster-General.

DEPARTMENT OF JUSTICE,
Washington, December 28, 1882.

SIR: On the papers referred to me by you concerning the arbitration of claims of the United States against certain mail contractors, I have to answer as follows:

You request me to advise you whether the submission agreed to by George Bliss, esq., acting for the United States, and R. G. Ingersoll, esq., acting for the contractors, is valid. (Letter November 25, 1882.)

I have not found any opinion of my predecessors bearing on the question involved, but in *United States v. Ames* (1 Woodbury & Minot, 89) the circuit court held broadly that a submission by the United States was invalid on account of the want of authority in any officer of the United States attorney to enter into a submission in their behalf that shall be binding: saying, "All judicial power is by the Constitution vested in the Supreme Court, and such inferior courts as Congress may from time ordain and establish. (Constitution, Art. 3, Par. 1.) No Department nor officer has a right to vest any of it elsewhere."

The Court of Claims, however, in the case of the Great Falls Manufacturing Company (16 C. Cls. R., 195) made the following distinction, as shown by the syllabus:

"Though an officer may not be authorized in terms to submit a matter to arbitration, yet if he be specially authorized by Congress to act in regard to the subject-matter of the submission, so that he will have power to carry into effect the decree which the award may direct, he has power to submit the matter to arbitration." The chief-justice dissented on the ground that no authority to arbitrate had been given by Congress (p. 200).

I have found no other federal decision than these, and no statute authorizing such submission; but it appears that by section 4057 Revised Statutes the Postmaster-General is required to cause suit to be brought to recover such claims as those in question.

It is apparent from the statement of Mr. Bliss that if no legal impediment exists it would be greatly to the advantage of the United States to carry out the submission, and it further appears that the contractors are not only desirous to do so, but are willing to give bond to abide by the result.

Mr. Bliss is of opinion that the submission is lawful, but enters into no discussion of the subject, and furnishes no authority for his opinion, which, in view of the decisions above cited, is unfortunate. Thus far, knowing his experience in acting for the Government, I have assumed he knew of some statute or authority to warrant the course he has taken.

The circuit court proceeded apparently on the ground that, where by statute a particular authority is vested or mode of proceeding is directed it is exclusive; and section 4057 cited, gives peculiar force to the doctrine as applied to this case. It might also be said that the officers of the United States concerned in this matter, if considered either as general agents or as agents with designated powers, are unauthorized to bind their principal by this species of contract.

The Court of Claims does not dispute but avoids such reasoning by holding that the delegation of authority to submit need not be express, but may be implied from the nature and extent of control over the general subject-matter expressly given. Section 4057 seems to stand in the way of taking any benefit of this distinction.

In ordinary cases it might be put on the general power of an attorney at law to act for this client, but even there the weight of authority is, I think, that the power can be exercised only after suit brought, though there are decisions upholding its exercise before. It is doubtful whether such a doctrine is applicable to the present case, for it is difficult to imply a power in the Attorney-General to submit to arbitration a case in which the Postmaster-General is specially directed to cause suit to be brought. As a question of law, therefore, the right of submission seems to me to be in serious doubt.

Assuming, however, that both parties are desirous of securing the practicable advantage of the submission, and are willing to take such measures as may avail to put the proceeding beyond question of its legality, I suggest that end would be accomplished by the formal commencement of suits in the supreme court of the District against the respective contractors, in which, by their attorney, they should enter their appearance. Then, upon application, and by consent of parties, the court would doubtless appoint the persons named in the present agreements as arbitrators, and their award could be returned to and made the judgment of the court. This course will satisfy the reasonable doubt in your mind, and, unless open to some objection which does not occur to me, would avoid the danger of making a precedent which might, under other circumstances, be used to the disadvantage of the public.

In this connection I call your attention to *Alexandria Canal Company vs. Swan* (5

How., 86), in which suit, brought in the circuit court of Washington County, the cause after issue was referred by a rule of court to four arbitrators, upon terms specified in a written agreement filed in the case setting forth the manner in which the arbitrators were to be selected, &c. The Supreme Court upheld the proceeding, Chief Justice Taney declaring that "a trial by arbitrators appointed by the court with the consent of both parties is one of the modes of prosecuting a suit to judgment as well established and as fully warranted by law as a trial by jury." (See, also, *Newcomb vs. Wood*, 97 U. S., 582.)

The proposition of the contractors to give bond to abide the result, though indicative of their good faith, does not seem to me to change the legal aspect of the case, for if by inherent defect of authority the promise of one side is not binding, it would, I think, affect the validity of the collateral no less than of the principal agreement.

I am, with respect, &c.,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

Hon. TIMOTHY O. HOWE,
Postmaster-General.

The WITNESS. I had some discussion with Mr. Ingersoll about this proposed arbitration, and he wanted to open a court and bring witnesses and take their testimony, and so on, but it never amounted to anything. We did not agree on that point. We have had no other correspondence with Mr. Ingersoll. When he has come in we have talked the matter over and discussed it in various ways, but we have never made any movement as to the settlement of the cases.

Q. You say you never met as a board for the purpose of adjudicating the questions at issue?—A. No, sir; we never did.

By Mr. STEWART:

Q. Do you say that it was proposed to call and examine witnesses, and that you objected to that?—A. Well, I objected in the first place because it had not been decided that we had authority to go ahead.

Q. For no other reason?—A. For no other reason.

Q. Then, so far as appears, the Salisburys and Parkers, by their representative, expressed a willingness to go ahead, but the Government declined to do so?—A. Yes, sir; they seemed anxious all the time to effect a settlement in that way. We were not certain that if—

Q. (Interposing.) You acted under the advice of Attorney-General Brewster?—A. No, sir. This case was submitted to the Attorney-General some time afterwards. We were pretty clear upon the point that we had no authority to go ahead with that arbitration, and if we had carried it to a finality and made an award or a judgment against these parties, we could not see that they would be bound to abide by the award, and if not, we would be left without recourse against them, and have our trouble for our pains.

By Mr. VAN ALSTYNE:

Q. It was the understanding of your office in the first place that this proposed arbitration was not binding upon them?—A. Yes, sir; we raised the question with the Postmaster-General.

Q. You interrogated the Attorney-General on the subject?—A. Yes, sir.

Q. And you took it that his answer was in corroboration of your views?—A. Yes, sir.

Q. That the arbitration could only be availed of by commencing suits and then arranging some sort of an arbitration under cover of those suits?—A. Yes, sir.

Q. Those suits have never been commenced?—A. Never, to my knowledge.

Q. And that was the reason you suspended action?—A. Yes, sir.

Q. And not because of any reluctance to have the matter determined?—A. Oh, no, sir. When this matter was first submitted I called the attention of Second Assistant Postmaster-General Elmer to section 4057 of the Revised Statutes, which seemed to me to be mandatory as to the commencement of suits, and this letter which was addressed to the Attorney-General was the result of that. The Postmaster-General, discussing the matter with us, had the same view, and he said he would submit the question to the Attorney-General, as you see he did.

By the CHAIRMAN:

Q. What further correspondence did you have on the subject?—A. No further correspondence. I have had a great many discussions with Colonel Ingersoll about the matter. I told him that I thought we would have to go to suit with all these cases. In the first place, the arbitration embraced only four routes, while there were a number of other routes of the Salisburys which I thought were just as bad as this, and I said that I could not see where the Salisburys were going to gain anything by having those four routes settled up, and then we going on and suing them on four or five other cases of the same kind.

Q. Did you make that suggestion to Mr. Ingersoll?—A. Yes, sir.

Q. What answer did he make?—A. Well, he made no particular answer. He had his own view of that.

Q. Did he suggest that that difficulty might be remedied by putting in all the routes?—A. He wanted all the routes settled in this way. The agreement, of course, included only four routes. We were a long time making up our minds as to what we would do about this, and during that time I took up three or four more routes of the Salisburys that we had no evidence upon, and had them investigated, and got together as strong a case on those routes as we had on the four that were included in the arbitration. I furnished Mr. Ingersoll with a statement showing what I thought we should claim if we went on with the arbitration, and I have a copy of it here which contains, as you will see, more routes than those that were agreed to be submitted to arbitration.

Q. Is this the statement of the amounts that you found due from the Salisburys to the Government?—A. No; this is the statement I gave Mr. Ingersoll, a memorandum as to how we proposed to take up the cases if we finally decided to go on with the arbitration. This was early in the discussion. This first statement includes only the four routes. Afterwards I got additional information about these other routes.

By Mr. STEWART:

Q. Why have not suits been brought in these cases?—A. I cannot answer that question. I have here two tabular statements, marked respectively A and B. A embraces the Salisbury routes agreed to be submitted to arbitration and the Vinita and Las Vegas route of Parker, which was not included in the statement I gave Mr. Ingersoll, because at that time I had not sufficient data on that route to make a statement of this character. Subsequently I obtained that information.

The following are the statements above referred to:

A.

Route.	Termini.	Period.	Contractor received for service.	Contractor paid for service.	Profit.	To be recouped.
35040	Fargo to Pembina	August 1, 1878, to July 31, 1881.	\$72, 531 99	\$36, 000 00	\$36, 531 99	\$24, 177 33
36128	Silver Bow to New Chicago.	January 1, 1879, to Nov. 30, 1881.	35, 857 81	18, 290 98	17, 566 83	14, 670 31
45132	Wells to Hamilton.....	August 1, 1879, to June 30, 1882.	70, 746 46	17, 012 06	53, 734 40	27, 352 18
46120	Soledad to Newhall.....	July 1, 1878, to June 30, 1882.	213, 875 43	114, 678 37	99, 197 06	56, 112 92
Total.....			393, 011 69	185, 981 41	206, 030 28	122, 312 74

The above are net amounts. Fines and deductions have been subtracted from gross sums due on the per annum rates of the contracts, leaving the net payments in the first column.

Statement, of which this is a press copy, given to Hon. R. G. Ingersoll, June 2, 1883.

H. D. LYMAN,
Chief Clerk.

B.

THE SALISBURYS.

Route.	Contractors received for service.	Contractors paid for service.	Profit.	To be recouped.
46120.....	\$213, 875 43	\$114, 678 37	\$99, 197 06	\$56, 112 92
36128.....	35, 857 81	18, 290 98	17, 566 83	14, 670 31
45132.....	70, 746 46	17, 012 06	53, 734 40	27, 352 18
35040.....	72, 531 99	36, 000 00	36, 531 99	24, 177 33
46267.....	142, 177 30	67, 934 77	74, 242 53	50, 430 93
38155.....	.....	.....	.....	18, 752 39
36115.....	.....	.....	.....	24, 140 68
36107.....	.....	.....	.....	99, 511 44
39116.....	.....	.....	.....	18, 912 04
				334, 060 22

THE PARKERS.

32024.....	.....	.....	.....	179, 462 22
29149.....	.....	.....	.....	30, 841 67
45103.....	.....	.....	.....	20, 039 57
				230, 343 46

Q. What other correspondence did you have upon this subject, if any?

By the CHAIRMAN:

—A. With the Attorney-General?

Q. With the Attorney-General or with Mr. Bliss.—A. No other correspondence at all. I have furnished you copies of all the correspondence.

Q. What other papers are those that you have there?—A. These are copies of correspondence between Postmaster-General Howe and Mr. George Bliss, and the Attorney-General, in relation to star-route matters occurring prior to this arbitration. They are, I think, within

the scope of the resolution calling upon the Postmaster-General for copies of all correspondence relating to the subject.

Q. Do they relate to the conduct of the prosecution of the star-route cases?—A. They relate to the general conduct of the cases, the subpoenaing of witnesses, and so on.

Q. Then you will please put them into the record.

The witness submitted the following:

MR. JAMES TO MR. BLISS.

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER GENERAL,
Washington, D. C., December 17, 1881.

SIR: From an examination of the records of this Department I have been convinced that money has been [paid] out of the funds of the Government to certain persons under circumstances which bring such payments within section 4057 of the Revised Statutes in a number of instances.

The evidence which seems to me sufficient to maintain suits by the United States to recover such moneys is on file in this Department. Copies of much of it are already in your hands.

In compliance with law I hereby request that unless you shall differ from me as to the weight of the evidence, you will cause suits to be instituted in the name of the United States for the recovery of said moneys illegally paid from the parties who received the same.

Very respectfully,

THOMAS L. JAMES,
Postmaster-General.

Hon. GEORGE BLISS,
Of Counsel in "Star Route" Mail Cases.

MR. BLISS TO MR. JAMES.

WASHINGTON, December 18, 1881.

DEAR SIR: The request contained in your letter of yesterday that suits should be commenced to recover moneys illegally paid to contractors with the Post-Office Department is received.

When I first became connected with the cases known as the star-route cases, I called the attention of the Attorney-General to the propriety of commencing civil suits such as you suggest. He fully agreed with me, but the matter has been delayed in consequence of the unexpected labor connected with the preparation of the criminal cases. I was and am unwilling that any idea should go forth that criminal proceedings were to be forborne or delayed and civil proceedings substituted. If frauds, such as I believe can be shown to have been committed in these cases, cannot be punished by convictions in the criminal courts, it is more important to show this fact to the law-making power and the public, and thus secure a change in the law, than to recover for the Government even the whole of the large amount wrongfully taken from the Treasury. I do not believe that our criminal laws—defective as the United States Statutes are in all criminal matters—are so defective that crimes such as these are not punishable. Nor do I believe that there will be any hesitation on the part of juries in convicting on proper evidence, such evidence as I believe we can present. Under this conviction, I have temporarily put aside the question of civil suits, and have devoted myself to the criminal cases. Even you, familiar as you are with these cases, can have little idea of the amount of labor which has necessarily been bestowed upon the preparation of them. The witnesses are scattered over thousands of miles. Hardly one of them is less than 1,500 miles from this city, and many of them are twice that distance. These witnesses have been sought out by your inspectors with an energy, fidelity, and perseverance rarely combined in subordinates, either in public or private life. The thousands of pages of testimony thus gathered, together with that furnished by the voluminous records of the Post-Office and Treasury Departments, have been examined, arranged, and abstracted, first by Inspector Woodward and then by counsel, with an amount of personal labor far beyond anything I anticipated when I came into the cases, and far beyond anything I would then have been willing to undertake. In this examination breaks and omissions in the chain of testimony have been discovered and supplied.

The criminal cases naturally divide themselves into four or five great combinations. We have this week completed, to our satisfaction, the preparation, for the grand jury and for trial, of the evidence as to one of these combinations, and though, as a general rule, I prefer not to say anything as to what we expect to do, I may mention that I intend to issue this week subpoenas for about sixty witnesses to appear before the grand jury as soon after the New Year as that body will be ready to examine them.

A good deal of progress has been made in the preparation of the criminal cases connected with the other great combinations, so much, indeed, that, so far as I can perceive, there is no danger that the statute of limitations can bar any of the cases. I hope they will be ready for the grand jury and for trial as soon as jury and court can attend to them.

Under these circumstances, your request for the commencement of civil suits seems to me timely. Personally, I have no authority to commence such suits; but you and I know that the senior counsel, who was yesterday confirmed as Attorney-General, will not hesitate to give the requisite authority, for one of the chief reasons for his selection for that position was his avowed determination to press the star-route cases. I shall at once transmit to him a copy of your letter, and ask his approval. When received I will cause civil suits to be commenced in those cases in which the evidence in the possession of the Government seems to justify such a course.

You will, I know, agree with me that these civil suits should not in any way supersede the criminal prosecutions, for punishment of the offenders is of infinite more importance than the recovery of money. Both civil and criminal proceedings will be pushed as rapidly as is consistent with justice to the Government and to the defendants, though it is quite possible that you will not find the progress so rapid as you desire.

Your obedient servant,

GEORGE BLISS,
Special Counsel.

Hon. THOMAS L. JAMES,
Postmaster-General.

MR. HOWE TO MR. BREWSTER.

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., February 15, 1882.

SIR: I have the honor to inclose herewith the account of A. G. Sharp, post-office inspector at San Francisco, amounting to \$217.56, for expenses incurred in serving subpoenas in connection with the star-route cases.

This voucher is submitted with the hope that you may be able to pay the same from the funds at your disposal.

As the inspector has advanced the amount above mentioned, I respectfully ask that the matter be considered at as early a date as possible.

Very respectfully,

T. O. HOWE,
Postmaster-General.

Hon. BENJAMIN H. BREWSTER,
Attorney-General United States.

MR. BLISS TO MR. HOWE.

POST-OFFICE DEPARTMENT,
Washington, D. C., February 16, 1882.

DEAR SIR: Referring to our conversation of to-day, I beg to state the facts in the cases as I understand them.

Various postmasters in Colorado, New Mexico, and Arizona were understood to possess important information bearing on the pending "star-route cases." To subpoena them would have taken time that could not well be spared, and would have involved considerable expense. I consulted the Postmaster-General to learn whether there existed any authority to direct a postmaster to report here, and was informed that such authority was exercised not infrequently. No question was raised as to the expense, but letters were sent by Postmaster-General James requiring them to report here at once, there being added a statement that their reasonable expenses would be paid, or some equivalent phrase. Such letters were written to twelve or fifteen post-

masters. None of them were, I think, subpoenaed, certainly none till after they had received the Postmaster-General's letter and were on their way or just starting in obedience to such letter. On their arrival here I have taken them up as witnesses under subpoenas, getting an admission of service, and have got for them their mileage and per diem as witnesses.

In several cases they claimed and satisfied me that their mileage and per diem did not cover their actual expenses, but this arose chiefly from the fact that they were compelled to employ assistance in their office during their absence. On calling the attention of Mr. Hatton to three of these cases he undertook to provide for the excess by making an allowance for clerk hire. The postmasters were satisfied, were paid their mileage and per diem, and went home. It now appears that a question has arisen as to the right or power of the Department to reimburse these postmasters. They stand upon the letter of your predecessor, stating that their expenses should be paid, and claim this has not been done.

So far as I am at present informed, these claims are about as follows:

Postmaster, Durango	\$83 25
Postmaster, Saguache	69 50
Postmaster, Pagosa Springs.....	30 00
Postmaster, Oji Caliente.....	55 75
Postmaster, El Rito	77 95
Postmaster, Mineral Park.....	140 00

Of these I am not sure that those at Oji Caliente or El Rito involve any portion of expense for clerk hire.

Mr. Hatton seemed confident this morning that there was no appropriation from which they could be paid, unless, perhaps, from that as to clerical service.

Of course, I must defer to his judgment if he has examined the matter, but I venture to suggest whether the appropriation for Colonel Parker's branch of the service is not in some form available.

Also, whether there is not a contingent fund available.

I cannot but feel that if you are really satisfied the men ought to be paid you will find a way to do it.

Your obedient servant,

GEORGE BLISS,
Special Assistant United States Attorney.

Hon. T. O. HOWE,
Postmaster-General.

MR. HOWE TO MR. BLISS.

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., February 17, 1882.

DEAR SIR: In reply to your letter of the 16th instant, touching the payment of witnesses who have been brought from different portions of the West, to testify in the so-called star-route cases, I have to say that it appears from your letter that such witnesses have received the mileage and per diem allowed by law to witnesses.

As I understand it, that is the only compensation the law provides for any witness brought from any part of the country. I cannot understand how the fact that the witness is a postmaster should entitle him to extra compensation, any more than if he were a banker, lawyer, or doctor. It is urged that my predecessor made some special promise to induce the attendance of these witnesses. I have consulted the Sixth Auditor and the Assistant Attorney-General of the Department. Their opinions coincide with mine, that I have no fund out of which I can legally make extra payment, even in case such promise was made.

Very truly, yours,

T. O. HOWE,
Postmaster-General.

Hon. GEORGE BLISS,
Post-Office Department, Washington, D. C.

MR. BLISS TO MR. HOWE.

POST-OFFICE DEPARTMENT,
Washington, D. C., February 17, 1882.

DEAR SIR: I have your favor of to-day. I cannot perceive how the fact that when the Postmaster-General has directed a postmaster to report here, and has

given him a written promise to pay his expenses, the claim of the postmaster for a fulfillment of that promise is satisfied because another Department volunteers to pay to him a portion of those expenses, though he did not come here under subpoena, and he reduces his claim upon the Post-Office Department to the mere balance, crediting against his actual expenses the amount thus received. The postmasters obviously look at it as a matter of bad faith on the part of the Government, not appreciating the force of the plea of a want of appropriation.

Having done my best to get them their pay, I can do no more, except that I have directed that copies of the correspondence be transmitted to each such postmaster, and have told them I know of no mode of relief except by application to Congress.

Your obedient servant,

GEORGE BLISS,
Special Assistant United States Attorney.

Hon. T. O. HOWE,
Postmaster-General.

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., February 18, 1882.

DEAR SIR: I have your favor of the 17th instant. In reply I beg to say I was not aware that any one had urged voluntary contributions of the Department of Justice made to witnesses as the fulfillment of a promise made by the Postmaster-General to pay such witnesses their expenses.

I was not aware that the Department of Justice had made voluntary contributions to any witnesses. I assumed that the Department of Justice was supplied with funds to pay all witnesses, while this Department was intrusted only with funds sufficient to pay postmasters.

In the cases under consideration it seems that certain persons who had served both as postmasters and as witnesses, and who had received the pay awarded to both services, still claimed compensation, not allowed by law to either, upon the ground that a Postmaster-General had expressly promised such compensation. I did not know whether such promise had been made or not. If made, I assumed it had been made at your suggestion, and that you might be able to designate the fund out of which some Department might redeem such promise. I know of no such funds under the control of this Department. This morning the Assistant Attorney-General for the Post-Office Department refers me to section 850 of the Revised Statutes. That section seems to authorize the Department of Justice, not the Post-Office Department, to pay any officer, when sent away as a witness, his "expenses" *instead* of his "mileage and per diem."

Under that section I respectfully submit that if the expenses of the witnesses who complain of "bad faith" exceed the sum you have paid them as per diem and mileage, you may safely pay them such balance.

If, on the contrary, their expenses are less than the sum paid, I respectfully inquire if the difference should not be ascertained and reported to this Department, and stopped from their future salaries.

As you have directed copies of this correspondence to be sent to the witnesses who complain, and whose names are not known to me, will you be good enough to direct copies of this letter to be sent to the same.

Very respectfully, your obedient servant,

T. O. HOWE,
Postmaster-General.

GEORGE BLISS, Esq.,
Post-Office Department, Washington, D. C.

MR. BLISS TO MR. HOWE.

POST-OFFICE DEPARTMENT,
Washington, D. C., May 6, 1882.

DEAR SIR: I have to request that you will by telegraph direct the following-named postmasters to report here on May 15 to testify in the star-route cases. Their proper expenses will be paid by the Department of Justice. Titus W. Fouch, Gardner, Huerfano County, Colo.; Zachariah R. Petty, Bijou Basin, Colo.; Wm. Dowlin, Fort Stanton, Lincoln County, New Mexico; Rich'd H. Clendenin, Martinsdale, Montana

If to any of these points there is no telegraph, I suggest that you forward through the postmaster at the nearest telegraph station.

Your obedient servant,

GEORGE BLISS,
Special Assistant Attorney.

Hon. T. O. HOWE, *Postmaster-General.*

MR. BLISS TO MR. HOWE.

POST-OFFICE DEPARTMENT,
Washington, D. C., May 10, 1882.

DEAR SIR: I verbally requested Mr. Lyman, who was accidentally in the office, to ask that John C. Manning, postmaster at San Antonio, be directed to report here as soon as possible with all correspondence, letters, and telegrams in his possession or under his control from Thomas J. Brady, J. B. Price, John L. French, and J. J. Ellis, or either of them. I now repeat the request, and add that I will see that his reasonable expenses are paid by the Department of Justice. A subpoena has been issued, but I desire his attendance earlier than a subpoena could go and return.

Your obedient servant,

GEORGE BLISS,
Special Assistant Attorney.

Hon. T. O. HOWE,
Postmaster-General.

MR. BLISS TO MR. HOWE.

POST OFFICE DEPARTMENT,
Washington, D. C., May 20, 1882.

DEAR SIR: I will be obliged if you will, *by telegraph*, request William M. Krider, postmaster at Mineral Park, Ariz., to come to Washington at once. He proves to be a necessary witness in the case against Dorsey. His expenses will be paid by the Department of Justice.

I see by the papers that heretofore it has been the practice to reach Mineral Park by telegraphing to Prescott, and forwarding thence to Mineral Park, but there may be more direct communication now.

Your obedient servant,

GEORGE BLISS,
Assistant Attorney.

Hon. T. O. HOWE, *Postmaster-General.*

MR. BREWSTER TO MR. HOWE.

DEPARTMENT OF JUSTICE,
Washington November 7, 1882.

SIR: With this I send you the correspondence between Mr. George Bliss and myself with reference to star-route prosecutions—more especially those that are against Salisbury and others.

Mr. Bliss makes a full report with reference to these cases, and expresses an opinion of the necessity for some preparation and assistance before further proceedings are had in these cases against Salisbury and others named in his letter, and indicates that the preparation and assistance should come from your Department.

I call your attention to this correspondence, and I also desire you to say if it is the wish of your Department to have these cases further pursued, or if, in your opinion, they cannot be pursued prosperously. If you think they ought to be pursued, will you give directions to have the assistance furnished that Mr. Bliss calls for?

The preparation and arrangement of the evidence in your Department must necessarily be made by officers of your Department.

And oblige, truly and respectfully,

BREWSTER,
Attorney-General.

Hon. TIMOTHY O. HOWE,
Postmaster-General.

MR. BREWSTER TO MR. GRESHAM.

HOWLAND HOTEL, LONG BRANCH, N. J. *July 25, 1883.*

SIR: With this I send to you a copy of a letter this day received by me from George Bliss, esq. I also inclose you a copy of my answer to him.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

HON. WALTER Q. GRESHAM,
Postmaster-General, Washington, D. C.

MR. HOWE TO MR. BREWSTER.

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., November 8, 1882.

SIR: I have your favor of yesterday, covering a correspondence between yourself and Mr. George Bliss "with reference to star-route prosecutions."

You say Mr. Bliss "expresses an opinion of the necessity for some preparation and assistance before further proceedings are had in those cases," * * * and indicates that the preparation and assistance should come from this Department.

I am sure you could not mean to intimate that this Department had neglected any preparation in its power to make, or refused any assistance in its power to give. This Department has no means of aiding any prosecution, save its records and its officers.

I understand that long before you took charge of the Department of Justice, and longer still before I came to this Department, attorneys representing your Department were assigned to rooms in the Post-Office Department. So far as they wished they took possession of its records. More than once I have been called upon for certified copies of records of this Department, which I could not give at the time without assistance from the Department of Justice.

So far as I know, the attorneys representing your Department have had as complete control of the officers of this Department as they asked to have. Indeed, "the energy, perseverance, judgment, and fidelity displayed" of the inspectors of this Department not only led Mr. Bliss to ask that the difficult task of summoning witnesses should be as far as possible intrusted to them rather than to the marshals of the United States, but drew from him a special letter of acknowledgment to the chief of that division. As for myself, knowing I was quite unable to aid the attorneys specially charged with the prosecution of these important causes, I was so scrupulous not to embarrass him that, at the personal request of Mr. Bliss, I declined to take charge of this Department for some days after I reached Washington.

You desire me "to say if it is the wish of your (this) Department to have these cases further pursued, or if in your (my) opinion they cannot be pursued prosperously," I am anxious as you are, and as every good citizen must be, that if crime has been committed it should be punished. If liability has been incurred to the United States, the proper remedy should be applied.

But when you remember how much time was consumed by the learned assistants specially retained to aid the Department of Justice in the prosecution of these cases, I am sure you will not think it safe to put the legal rights of the United States under the direction of the Postmaster-General.

You also say that the preparation and arrangement of evidence in this Department must necessarily be made by officers of this Department. On reflection I think you will see that the postal officers can prepare no evidence which does not exist, and you will prefer to have evidence which does exist arranged by your officers rather than by ours.

You may be very sure Mr. Bliss will have all the assistance he "calls for," if it is in the power of this Department to render it.

I am, very respectfully, your obedient servant,

T. O. HOWE,
Postmaster-General.

HON. BENJAMIN HARRIS BREWSTER,
Attorney-General of the United States, Washington, D. C.

MR. INGERSOLL TO MR. ELMER.

WASHINGTON, D. C., December 11, 1882.

DEAR SIR: When will it suit your convenience to make arrangements for taking the testimony in the Salisbury & Parker routes submitted to you and to Col. George Bliss and myself as persons selected by said Bliss and myself?

On the part of Salisbury & Parker I am ready to take testimony.

Yours truly,

R. G. INGERSOLL,
Counsel for Parker & Salisbury.

Hon. R. A. ELMER,
Second Assistant Postmaster-General.

MR. INGERSOLL TO MR. ELMER.

DECEMBER 16, 1882.

MY DEAR SIR: I only want to let you know that I called according to promise.

Yours always,

R. G. INGERSOLL.

Hon. R. A. ELMER.

MR. GRESHAM TO MR. BREWSTER.

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., June 19, 1883.

SIR: It is proper to inform you that under the provisions of section 4057 of the Revised Statutes I have taken the preliminary steps towards suits for the recovery, on account of fraud, of all moneys paid for expedition on all the routes, save one, that were included in the case of the United States *vs.* John W. Dorsey *et al.*, recently tried in the supreme court of the District of Columbia.

The same course has also been taken in regard to other routes in which what are known as the Parker & Salisbury combinations were interested, and in due course these as well as other cases will reach the Solicitor of the Treasury from the Auditor of the Treasury for the Post-Office Department.

This is the usual method of proceeding in such cases.

Very respectfully,

W. Q. GRESHAM,
Postmaster-General.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

MR. BREWSTER TO MR. GRESHAM.

DEPARTMENT OF JUSTICE,
Washington, June 22, 1883.

SIR: I have the honor to transmit herewith, for your information, copy of indictment No. 14249, in the case of the United States *vs.* John R. Miner, for perjury; also, a list of all indictments against persons charged with violations of the postal laws.

Very respectfully, your obedient servant,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

Hon. WALTER Q. GRESHAM,
Postmaster-General.

MR. BREWSTER TO MR. BLISS.

HOWLAND HOTEL, LONG BRANCH, N. J., July 25, 1883.

SIR Your letter of the 24th of July was handed to me to-day. Some month or more ago, perhaps two months, as I have advised you, the Postmaster-General communicated with me upon the subject of the civil suits arising out of the star-route

cases. In consequence of that I put you in direct communication with him, and I conveyed to him copies of all the correspondence between the Department of Justice and yourself as to these cases. You gave me a verbal but brief account of your interview with the Postmaster-General, and I understood you to say that you were to be retained to assist him in some general way in the prosecution of those civil suits.

I have not the correspondence by me at this place, or probably I would find in some one of your notes written to me at or about that time a statement of the result of your interview with the Postmaster-General, and what you understood your position to be. My recollection now is that you were to have charge of them in some general way, and much was to be left to your discretion as to when and where you would appear, your desire being that you would not add expense to the case by going to any remote point, if it would be necessary to bring suits other than in Washington or New York, or in some other convenient jurisdiction. Indeed, if I am not much amiss, I now remember that it was your purpose mainly to supervise such suits as might be brought in Washington or New York, so as to avoid expense that would be occasioned by your absence from your business in New York.

Since that time the Postmaster-General has verbally said to me that he was having the papers prepared for the purpose of directing suits to be brought. I believe much labor was necessary to arrange the papers and adjust the accounts and get things ready for the suits. You know that by statute it lies with the Postmaster-General alone to direct suits or not to direct them. I have no power except as I am requested by him to direct action to be taken, or to take action myself. When he reports to me the result of his preparations and requests me to bring certain suits to recover certain claims, of which I can know nothing unless they are so reported to me, I will then be ready and prepared to communicate with you.

When I first became Attorney-General and we advised together upon this subject, it was after you conveyed to me the information that Mr. James had deputed you to take charge of those civil cases, and I understood from you that before you intended to act it was your wish that I should know that you so proposed to do, that I should know by what authority you would undertake to act, and that you wished to have my sanction as the head of the Department of Justice to any such suits as you might think it proper to bring under the authority given to you to Mr. James. Then I promptly accepted your proposals and suggestions, and assented to your immediate action if you thought it necessary under the instructions you had received from the Post-Office Department.

The impression I had soon after that communication made by you, and in which I responded, I believe, in writing, was that it was considered inexpedient to begin those civil suits at that time, because of the urgency of the criminal proceedings; and from time to time since then, in my letters to you, I have adverted to these outstanding cases, and reminded you of them, indicating my intention to speed them whenever the Post-Office Department and yourself were ready to act; and I have been ever since prepared to sanction such suits, and instruct and direct them when they were brought.

The suggestions of your letter of the 24th of July I will remember; I will also send a copy of that letter to the Postmaster-General, and of this also.

Very respectfully, yours,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
Special Assistant United States Attorney in the star-route cases, New York City.

MR. GRESHAM TO MR. BREWSTER.

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., July 27, 1883.

SIR: I am just in receipt of your letter of the 25th instant, inclosing a letter addressed to you by George Bliss, esq., on the 24th instant, and your reply thereto of the 25th instant.

The Second Assistant Postmaster-General is at work industriously preparing cases for civil suits against a number of star-route contractors. In his absence his chief clerk informs me that it will be ten days before they will be able to turn the cases over to me for my examination.

Colonel Ingersoll requested yesterday that before suits were brought against some of the contractors whom he represents, I should inform him of the amount which was demanded. While he did not say so in terms, I inferred that perhaps the Salisburys and others contemplated paying the amount which the Government claimed, or will claim, is due from them. I told Colonel Ingersoll that he and his clients should have an opportunity to settle without suit, if they desired to do so, before I addressed you again upon the subject.

If it shall appear from the papers submitted to me by the Second Assistant Postmaster-General that any star-route contractors have obtained money from the De-

partment by fraud, I shall address a communication to you, requesting that suit be brought against such persons.

Respectfully, yours,

W. Q. GRESHAM,
Postmaster-General.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

Q. Did you make any estimates of the amounts due on account of overcharges by contractors on all the routes in question?—A. The Postmaster-General wrote a letter to the Auditor of the Treasury for the Post-Office Department, asking him to prepare certified statements showing the amounts paid for expedition on the routes embraced in this sheet [marked C], showing the numbers and termini of the different routes, the names of the contractors, and the amounts paid for expedition, less fines and deductions for failure to perform the expedited service.

Q. During what time?—A. During the contract term of the several routes mentioned in the statement. You see, expedition was put on after the beginning of the service, and sometimes it ceased before the end of the contract term.

Q. What is the aggregate amount estimated to be due, as shown by this statement?—A. \$2,172,132.87. There are 40 routes.

The statement is as follows:

Statement showing the number and termini of routes, names of contractors, and the amount paid for expedition, less fines and deductions for failures to perform expedition.

Route.	Termini.		Name.	Amount.
	From—	To—		
38118	Monument.....	River Bend.....	A. H. Brown.....	\$15,878 22
38146	Garland.....	Ouray.....	B. Barlow and J. L. Sanderson..	59,880 21
31454	Fort Worth.....	Yuma.....	John T. Chidester.....	477,753 55
39109	Las Vegas.....	Las Cruces.....	C. Cosgrove.....	132,827 82
35015	Vermillion.....	Sioux Falls.....	John W. Dorsey.....	3,173 22
38156	Silverton.....	Parrott City.....	do.....	22,201 40
38113	White River.....	Rawlins.....	do.....	24,240 88
40113	Tres Alamos.....	Clifton.....	do.....	25,048 97
40104	Mineral Park.....	Pioche.....	do.....	17,132 29
38145	Garland.....	Parrott City.....	do.....	20,283 29
46213	Cloverdale.....	Eureka.....	W. H. Forse.....	70,572 52
40116	Phoenix.....	Prescott.....	W. M. Griffith.....	66,244 23
38150	Saguache.....	Lake City.....	John R. Miner.....	15,610 23
38140	Trinidad.....	Madison.....	do.....	5,600 27
38135	Saint Charles.....	Greenhorn.....	do.....	5,392 52
38134	Pueblo.....	Rosita.....	do.....	9,360 88
35051	Bismarck.....	Tongue.....	do.....	93,848 78
39104	Santa Fé.....	Fort Stanton.....	do.....	26,015 97
29149	Walnut Ridge.....	Harrison.....	E. W. Parker.....	38,515 64
34149	Kearney.....	Kent.....	John M. Peck.....	4,819 99
46247	Redding.....	Alturas.....	do.....	63,456 56
46132	Julian.....	Colton.....	do.....	14,117 90
44160	Canyon City.....	Camp McDermott.....	do.....	46,932 56
44155	The Dalles.....	Baker City.....	do.....	91,659 13
44140	Eugene City.....	Bridge Creek.....	do.....	20,458 69
41119	Toquerville.....	Adairville.....	do.....	29,771 43
30162	Shreveport.....	Red River Landing.....	B. H. Peterson.....	45,679 29
32024	Vinita.....	Las Vegas.....	V. W. Parker.....	179,340 58
45103	Carson City.....	Aurora.....	V. H. Pease.....	5,753 38
39103	Santa Fé.....	Mesilla.....	J. B. Price.....	74,503 35
31148	San Antonio.....	Corpus Christi.....	do.....	43,951 27
45132	Wells.....	Hamilton.....	O. J. Salisbury.....	40,723 51
36128	Silver Bow.....	New Chicago.....	do.....	14,931 33
46267	Willow Ranch.....	Reno.....	do.....	70,391 72
46120	Soledad.....	Newhall.....	O. J. Salisbury and M. V. Nichols	83,255 97
39116	Fort Bascom.....	Trinidad.....	M. Salisbury.....	19,014 23
38155	Antelope Springs.....	Silverton.....	do.....	18,752 34
36115	Helena.....	Missoula.....	do.....	36,210 81
36107	Bozeman.....	Tongue River.....	do.....	118,128 72
35040	Fargo.....	Pembina.....	Luke Voorhees.....	21,399 22
				2,172,832 87

Q. What are these routes that are marked with a star?—A. Those are the routes that were included in the trials of the Dorsey case.

Q. Was it the opinion of the Post-Office Department that the expedition obtained upon these routes was obtained through fraudulent representations?—A. Yes, sir.

Q. If the expedition was obtained through fraudulent representations or false affidavits, then the whole amount paid for expedition was illegally paid under the rulings of the Department?—A. We thought that if suits were brought we should sue for all the payments made for expedition. There is no middle ground at all in the matter. I told Colonel Ingersoll that if we were to sue we should probably sue for all that had been paid, alleging fraud in the inception.

Q. There were some 90 and odd routes, were there not, that were mentioned as being implicated in these fraudulent transactions?—A. Ninety-three.

Q. Have you made any estimate of the others not included in this statement?—A. No, sir; I have no data on the others. I picked out the largest routes, all that we had evidence upon. As to the other, we have no information upon which we could base suits.

Q. Is it your opinion that an investigation of the other routes making up the 93 would show a similar state of facts to that which you found in these forty included here?—A. I think it would in some cases, but it is hard to say about that. Undoubtedly on some of the routes it would not. Some of them are good cases where there is no fraud at all; small service on which allowances were properly made for expedition.

Q. I see here that on the route from Fort Worth to Yuma John T. Chidester is put down as having expedition to the amount of \$477,000. Who is he?—A. I never saw John T. Chidester; but it is generally understood that the persons interested in that contract are Logan H. Roots, of Little Rock, and R. C. Kerens, of Saint Louis, Mo.

Q. Any others?—A. There may be others, but I cannot now recall their names.

By Mr. STEWART:

Q. Is this Chidester, a man of straw?—A. Chidester was the contractor, but how much personal interest he had in the routes, I never knew.

Q. Who was on his bond?—A. One Senator was on the bond on a proposal, on that route.

By Mr. VAN ALSTYNE:

Q. Do you remember his name?—A. No; but the case came up in the discussion before Judge Key, as to whether that Senator could legally be a bondsman on that proposal, and Judge Key held that he could, and accepted the proposal. There was a question about accepting it.

Q. That seems to be a very large contract.—A. Well, the route is 1,420 miles long from Fort Worth, Tex., to Yuma, Ariz. It was expedited, and \$165,000 was allowed in the order for expedition.

By Mr. STEWART:

Q. I suppose it may have been true that on some of these routes expedition was necessary?—A. Yes; I think expedition was necessary on some of them.

Q. And some additional compensation was, of course, required in

those regions where the country was filling up?—A. Oh, yes; the difficulty was in having too slow a schedule to start with on the routes. Of course, the Department can never tell what causes may arise for increasing the speed in the future, and they sometimes make their schedules slow, because expedition may never be required; and if you put on a fast schedule, of course it will cost more than a slow one.

Q. State whether or not the officers of the Department have ever entered into any computations to ascertain or have been able to ascertain how much expedition could have been made legitimately on those routes so as to determine, for instance, what percentage of the gross sum might have been properly allowed for expedition.

Mr. VAN ALSTYNE. The truth is that the officer of the Department who was expediting this service was interested in these improper transactions as *particeps criminis*.

The WITNESS. That is what the Government attempted to maintain in the star-route trial.

Mr. VAN ALSTYNE. And he has been indicted and has several indictments pending against him for his connection with these very transactions.

The WITNESS. Yes, sir.

Mr. STEWART. That is another question entirely. What I was trying to get at is how much of the gross sum that has been paid for expedition the Government has actually lost, the estimate being made upon the theory that some payment was proper and necessary.

The WITNESS. I think it is impossible for any person to tell how much should have been allowed in any of these cases. Under the statute which authorized the Postmaster-General to expedite a schedule and make an allowance for it there is no way in which the Department can make an accurate allowance for the increased speed. The Department has to rely entirely upon the contractor's statements as to what the cost will be. The methods employed in making these allowances for expedition were, in my opinion, wholly unwarranted and not authorized by the statute at all.

By Mr. VAN ALSTYNE:

Q. You did subsequently investigate several of these routes. Now, did you make an estimate or a calculation of the extent of the claim of the Government against these various contractors for overpayments improperly made to them?—A. Yes, sir. I took Mr. Brady's method of figuring the expedition.

Q. And is this statement which you have presented here the result of that calculation?—A. Yes, sir; that is the statement of all the amounts paid for expedition on those various routes without regard to the question of what amount of the money was actually earned by the contractors. In other words, we claim that there was fraud in all those cases, and if we went to suit we would sue for all the payments, on the ground of fraud in the inception.

Q. Now, the question of Mr. Stewart is this: About what proportion of the money so paid do you regard as actual overpayments to these people?—A. I have no means of ascertaining that, and I think it cannot be determined.

By Mr. STEWART:

Q. I understand you to say that the methods adopted by the Department in making allowances for this expedition were in your judgment unauthorized by the law as it stood?—A. Yes, sir.

Q. Please state in what respect.—A. Section 3951 of the Revised Statutes is as follows:

No extra allowance shall be made for any increase of expedition in carrying the mail unless thereby the employment of additional stock and carriers is made necessary, and in such case the additional compensation shall bear no greater proportion to the additional stock and carriers necessarily employed than the compensation in the original contract bears to the stock and carriers necessarily employed in its execution.

Section 620 of the Post-Office Regulations provides that—

When it becomes necessary to increase the speed on any route, the contractors will be required to state, under oath, the number of horses and men required to perform the service according to the contract schedule, and the number required to perform it with the proposed increase of speed.

That regulation, you will perceive, substitutes in place of the word "stock," which is used in the statute, the word "horses," and for the word "carriers" in the law, it substitutes the word "men," so that when they desired to expedite the schedule on any route, the contractor came in and made oath that on the present schedule so many horses (or "animals," as the case might be) and men were required to perform the service, and that so many horses and men would be required to perform it on the expedited schedule. Now, the method employed to adjust the pay for expedition was to add together the horses and men on the original schedule and to add together the horses and men on the expedited schedule, subtract the one from the other, find out what the increase was, and make the allowance *pro rata*. In other words, a horse was a man, and a man was a horse, for the purpose of calculating the expedition. Now, I have not heard any discussion on that point, but it seems to me that that way of figuring expedition is entirely unwarranted by the law. Indeed I don't know how any man can fix an allowance for expedition under that law as it stands and be safe. I have taken the ground upon all requests for expedition of that character that we would readvertise the service unless the contractor would carry the mail on the expedited schedule without additional compensation, because I say I do not know how to fix compensation for that expedition under the statute.

Q. So you practically make the contractors work under the original contracts?—A. Yes, sir. In the first place, I try to get the schedule as fast as possible at the beginning. In some cases the expedited service can be performed with little or no additional cost.

Q. Do you think any amendment of the law is necessary with reference to that matter; and if so, can you suggest what amendment should be made?—A. I drew a bill and had it introduced at the last session of Congress which provided for the repeal of this statute. I can almost remember the terms of the bill, but I can send you a copy of it.

Q. What became of that bill?—A. It did not get through.

Q. Was it reported favorably?—A. I think it was reported favorably from the committee, but I am not certain about that.

By the CHAIRMAN:

Q. What were the general provisions of it?—A. That whenever it becomes necessary to increase the speed at which the mail is carried on any post route the service shall be readvertised for the reduced time required, provided that the contractor for the service shall have the option of performing the expedited schedule without additional compensation therefor. Then it provides for the repeal of section 3961 of the Revised Statutes and the subsequent act which limited the allowance for expedition to 50 per cent. upon the contract as originally let.

By Mr. STEWART:

Q. As I understand you, your practice at present amounts to pretty much the same thing?—A. Yes; we carry it into practice, but I do not like to see the law stand as it is.

By the CHAIRMAN:

Q. What was the weak place in the statute which permitted this improper expedition of service?—A. I do not see that the statute does permit any such method of calculation as was adopted in making the expedition on these routes. The regulation says that the contractor shall make oath as to how many "horses," and how many "men" are required, but the law says "stock and carriers." Now, can anybody tell what "stock" means there, whether it means men and horses, or what it means.

Q. Who wrote that regulation?—A. I do not know. It was prepared, I suppose, at the time they got up this book of regulations in 1879, as there is no regulation before that that I can find touching the question of expedition of service.

Q. Who was Second Assistant Postmaster-General when that book was compiled?—A. Mr. Brady, I think. Mr. Key was Postmaster-General.

Q. You say you have not been able to discover who was the author of that regulation?—A. No, sir. We made a careful inquiry in order to be able to testify to that on the star-route trial, but we were unable to find anybody who knew anything about it.

Q. You state that it is your opinion that that regulation was not warranted by the statute?—A. I don't think it is in pursuance of the statute.

By Mr. STEWART:

Q. Why is it not abrogated?—A. It stands there just as it is because we have been expecting to get the whole business repealed. I told Judge Gresham that I would draw a regulation to repeal this one, and he approved of the idea.

By the CHAIRMAN:

Q. Then you are not acting under that regulation?—A. Not at all. I don't think we have had any requests for expedition beyond three or four within the last two or three years. In one case we found that the application was worked up by the contractor, and we readvertised the route on him, and when he found that out he got the people to say that they did not care for the expedition.

Now, let me illustrate the method by which expedition was calculated in these cases. I will not take any particular route; I will take a case where the pay is, say, \$2,000 per annum. Suppose that on the slowest schedule the contractor swears it will take two men and four animals to perform the service. For the purpose of getting the proportion those are added together and they make six—either six animals or six men. Then for the expedited schedule he swears that it will take six men and fourteen animals; that makes twenty. Subtract the six from the twenty and you have fourteen, and the increase of the pay is made in that proportion. That is, as 6 is to the original pay, \$2,000, so is 14 to the amount to be paid; so that if you are paying \$2,000 for the slow schedule you will pay \$4,666.66 for the expedition on that method of calculation, and in proportion to the number of men and horses that the contractor swears are necessary will be the increased compensation allowed.

Q. Hence, the importance of these oaths as to the men and horses required for expedition.—A. Yes, sir. Now, you see the contractor can understate the number of men and horses required on the first schedule and overstate the number required on the expedited schedule, and thus fraudulently increase the allowance for expedition.

Q. Is that the way you found it had been done?—A. Yes; it was changed about in various ways. Sometimes they figured in stock tenders, drivers, and the men driving the supply wagons. Everybody working on the route would be figured in under the head of "men," and all the horses used, including extras, would be included; everything would be figured in on the expedition. I think the testimony on the trial shows that on the Bismarck and Tongue River route they figured in every man they had working on the route, including those engaged in clearing the road, so that the expedition figured up over \$70,000, and the allowance was made at a rate a great deal less than pro rata on the basis of the oath.

Q. Please state now whether any suits have been instituted to recover the amounts set forth in the table marked C, by direction of the Postmaster-General under section 4057 of the Revised Statutes.—A. I cannot answer that question. The Postmaster-General, on the 25th day of October, 1883, addressed a communication to the Attorney-General giving a brief outline of nineteen cases on which there was claimed to be fraud. On the 27th of March, the Attorney-General detailed two of his assistants to examine the papers in the Post-Office Department relating to suits, but what further action he has taken in the matter I am not able to say.

Q. So far as you know, then, no suits have been begun?—A. No, sir.

By Mr. STEWART:

Q. Do you know whether the statute of limitations has run on any of those cases?—A. I do not. I have heard some of the counsel discuss that question, and they seemed to think that the statute did not run against the suits.

Q. It does not run against the Government in civil suits. Do you know whether Mr. William H. Bliss, of Saint Louis, has been employed to begin suits?—A. He is one of the Attorney-General's assistants that I have referred to.

Q. Detailed to begin suits?—A. No; to examine the papers. He is one of the assistants detailed for that business, and Mr. Blair is the other.

Q. Does the Department have in view the beginning of any suits at Saint Louis, Mo.?—A. No, sir; all the Post-Office Department has done is to call on the Attorney-General to institute proceedings, and to furnish him with all the information at its command.

Q. Is there any difference of opinion between the Post-Office Department and the Department of Justice as to whose duty it is to institute these suits?—A. I cannot answer for that. The Attorney-General and the Postmaster-General may have had some discussion in relation to it that has not come to my knowledge; I have no knowledge about that. I had some discussion about it with Mr. Elmer when he was here, and I thought that the right course was to state these balances to the Solicitor of the Treasury through the Auditor, and that he, being an officer of the Department of Justice, and having control of the district attorneys, would proceed in the regular channels. That is the way all suits are instituted in cases of balances due the United States on account of failing contracts, and it was finally determined that the Postmaster-General

should write to the Attorney-General transmitting certified copies of those balances claimed for expedition with a brief outline of the points in each case, and leave it for the Attorney-General to take the appropriate action; and except the call I had from Mr. Blair and Mr. Bliss to examine these papers I know of no further action taken by the Department of Justice.

Q. Do you know whether any of the persons mentioned in the statement marked C, which you have submitted here, are still contractors in the postal service?—A. Yes, sir; I do not think they are contractors under their own names, but I think they must be interested in certain routes in the names of other persons. I think the Salisburys are so interested. I simply surmise that, however; I have no personal knowledge of it. I think the Salisburys must be interested in certain contracts, and also the Parkers and Mr. Sanderson; I think they are all interested in contracts under other names.

Q. Are they still interested in subsisting contracts?—A. I think so; I have no means of knowing positively; it is only an inference.

Q. Are the persons named in the table responsible?—A. I am not able to say as to that. It is generally understood that Mr. Salisbury is responsible, and that Mr. Parker is, but I have no knowledge on the subject one way or the other.

Q. If any of these persons have contracts now subsisting they must have given security for the performance of the service?—A. Yes.

Q. Have you not the right under the law to deduct from payments on subsisting contracts any overpayments that may have been made on previous contracts?—A. The difficulty is to prove the connection of these parties with the present contracts.

Q. But have you authority to make such deductions?—A. I do not think we have. I should hesitate to involve ourselves in trouble on those routes by assuming that certain persons are interested in them without any knowledge or means of proving it.

Q. Who is A. H. Brown?—A. He is a contractor who lives in Washington, and he is an attorney and agent for Sanderson.

Q. This route, then, is supposed to belong to the Sanderson combination?—A. I presume it does.

Q. Who is John D. Chidester?—A. All I know about him is in connection with that route, and all I know on that subject is from the record.

Q. This being a very large contract, he must have had other persons interested with him?—A. I think so. To run a route 1,400 miles in length requires considerable capital to stock it and to carry on the service.

Q. Do you know whether Chidester, or anybody else mentioned in the record, is responsible for the \$477,000 due here for improper expedition?—A. Do you mean whether we have any evidence that would connect any of the other persons with it?

Q. Yes.—A. I am not aware of any evidence that would connect anybody else with it; I do not know, however, but there may have been some.

Q. Who is C. Cosgrove, on the Las Vegas and Las Cruces route?—A. I never met him; of course there is a good deal of talk among the agents and men who come around the Department, and in that way we learned more or less about these different persons; but we do not have it authoritatively. My inference is that the parties in that case are Roots and Kerens, the same that were interested in the route from Fort Worth to Yuma.

Q. Roots and Kerens would be responsible, would they not?—A. I think they are responsible.

By Mr. VAN ALSTYNE:

Q. Where does Cosgrove live?—A. His address was given at Atchison, Kans., when he was contractor on that route; I don't know where he is now.

Q. Do you know how much is due from the Salisbury combination on the table that is now before you, marked C?—A. Their amounts could be easily separated and added together. Their names appear here separately. M. Salisbury and O. J. Salisbury are one and the same, and there is one route here, No. 46120, from Soledad to Newhall, in which appear O. J. Salisbury and M. V. Nichols. Nichols and Salisbury were competing bidders on that route, and their bids were a tie, and the Department gave the route to them jointly. I suppose that is the reason why they happen to appear together on that particular route. That is the only route on which Nichols is connected with the Salisburys, so far as I know, and it came about in that way.

Q. Have you any means of knowing how much was paid for expedition on the others of the ninety-three routes?—A. No, sir. It would involve a long work to calculate it. That table which I have put in here represents a great deal of labor. I had it prepared in advance, with the expectation of being called upon to furnish it, so that I was able to bring it here without delay. Otherwise it would have taken a good while to get it ready.

Q. Is it your opinion that the remaining routes not estimated here would amount to half as much as these?—A. It would be simply a guess; but I do not think they would. I do not think they would amount to more than perhaps one-seventh as much.

Q. Do you think they would amount to one-quarter as much?—A. I do not. They are small routes.

Q. These routes included here cover the great bulk of the expedition, so far as the cost is concerned?—A. Yes, sir; nearly half the routes expedited are in this table. During the term when Mr. Brady was Second Assistant Postmaster-General he expedited about one hundred and twenty-eight routes. His predecessor expedited five or six, and the previous Second Assistant some half dozen, I believe.

Q. How many have been expedited since Mr. Brady went out?—A. We have expedited three or four; but that expedition has not cost the Government anything.

Q. Then, a considerable change has taken place in that branch of the business of the Department?—A. Yes, sir; we have readvertised one or two routes. I have got one in Oregon readvertised now, in which the contractor is claiming that there is some injustice done to him in re-advertising, and I am not sure but there is; but, at the same time, I hope before reletting the service to come to some arrangement which will be satisfactory, and let him keep his contract. I do not expedite routes except in cases of great emergency.

Q. You have been in the Post-Office Department for many years. State what has been the effect upon the service so far as efficiency and costs are concerned of the change since the removal of Mr. Brady.—A. Well, the net saving to the Government on the changes in the star service and steamboat service is in the neighborhood of \$2,500,000 a year, and the mileage has increased about 1,700,000 miles.

Q. So that you have largely increased the mileage and decreased the expenses?—A. Yes, sir.

Q. Is the star service being performed now for \$2,500,000 less a year than it cost during Mr. Brady's term?—A. No; because during the last six or eight months we have reduced the service to the lowest possible point; but it has been growing.

Q. But I mean since the investigation of the star-route frauds began.—A. I should have to refer to the annual reports to see what the appropriation was at that time and the annual rate of expenditure; but the figures I give you, \$2,500,000, represent the orders of reduction during the year 1881. I have figured in the miles of the three years, and the increase of mileage amounts to 1,700,000 miles.

Q. You mean the mileage between the termini—you mean that you have increased that much the amount of travel necessary to be done in performing the service?—A. Yes, sir; 1,700,000 miles.

Q. And at the same time you have reduced the cost of the service two and a half million a year?—A. Yes, sir.

Q. Is the service as efficiently and satisfactorily performed now as it was during the other regime?—A. Yes, sir. We changed and cut the service all up, in the advertising of it. We saved a great deal in that way. We would take a long route and divide it into two, thus giving people a chance to bid, who would not be able to stock and carry on a large route, and we put them on fast schedules, every one of them under the advertisement, and when we relet the service, we let it out at a great deal less money than it cost under the allowances for expedition. The route from Phoenix to Prescott, Arizona, was an instance. I think that route was costing us about \$32,000, and we readvertised it and got it for about one-quarter of that amount, while at the same time we added some mileage to it. These cases show, I think, that the former method of calculating the allowance for expedition was very unsafe. In my judgment, the only way in the world to fix the value of expedition, is to open the route to competition, but I think the Department should also at the same time use great discretion in readvertising, because hardship will occur to the contractor in such cases.

By Mr. STEWART:

Q. It is possible that there should be an honest contractor on a route where expedition is asked for, and that the expedition should be necessary?—A. Yes, sir. There are some cases where expedition is required, good cases where it ought to be granted. The difficulty we have is to get the expedition on a route and at the same time to avoid doing injustice to the contractor. A contractor may have provided his stock with the intention of carrying on the route for three or four years, and in those cases a readvertisement of the route may do him great injustice. However, in those cases where they have the stock on hand on the route they are better able to bid than anybody else, being on the ground. But, as I have said, there are very few cases of expedition now, because we are taking great care in advertising routes originally to get the service so fast that there will be no necessity for expedition. We put it at three and a half or four miles an hour in nearly every case.

One further point about these balances for expedition. I furnished Colonel Ingersoll, during our discussion of this proposed arbitration, certified copies of these statements on these routes for his information and at his request, so that he could see what we claimed and be prepared to answer if it went to suit, and I stated to him that we were going to sue for the full amount paid for expedition on the ground of fraud; he took that statement as a statement of an account against the

contractors, as a statement of the balance actually found by the Auditor to be due, and he appealed from that to the Comptroller.

He wrote the following letter to the Postmaster-General giving him notice of that appeal, and I have been since informed by the Auditor that the Comptroller dismissed the appeal. Here is the letter that he wrote:

[Law office of Robert G. Ingersoll, 1421 New York avenue.]

WASHINGTON, D. C.,
November 23, 1883.

DEAR SIR: In the cases of J. W. Parker on star-routes Nos. 29143 and 29149, in which the Sixth Auditor has certified a balance due the United States from said Parker, as follows:

On route 29143 of	\$38,515 64
On route 29149 of	30,841 67

The said J. W. Parker has this day appealed to the First Comptroller under section 270 R. S.

And in the case of V. H. Pease, on route 45103, in which said Auditor has certified a balance of \$5,753.38 as due the United States from said Pease, the said Pease has this day appealed to the First Comptroller of the Treasury under section 270 R. S.

And in the case of M. Cosgrove, on route 39109, in which the Sixth Auditor certified a balance due the United States of \$132,827.82, the said Cosgrove has this day appealed to the First Comptroller of the Treasury under section 270 R. S.

It being claimed in all of said cases that the said Sixth Auditor had no jurisdiction to reopen and restate said accounts.

I have the honor to remain yours, respectfully,

R. G. INGERSOLL,
Attorney for Appellants.

Hon. WALTER Q. GRESHAM,
Postmaster-General.

By the CHAIRMAN:

Q. That seems to be in disregard of the agreement to arbitrate?—A. Those are routes that are not included in the arbitration. As I have stated, while we were talking about going on with the arbitration, I had several other routes of the Salisburys investigated. We kept the men busy investigating them with the view of getting as much money out of the matter as we could, and the result was that in the course of five or six months we had three or four more cases of Salisbury routes just like the others. Colonel Ingersoll understood this to be a statement of account by the Auditor, of which the Auditor had jurisdiction, instead of what it was—a statement prepared by the Postmaster-General, to be sent to the Attorney-General as a basis for instituting suits.

By Mr. VAN ALSTYNE:

Q. You do have data which supply pretty general information as to the propriety of expediting or increasing the service on any route, do you not?—A. We do have a good deal. The only thing we rely on, though, is the statement of the Auditor of the revenue derived from the post-offices and their business.

Q. But the postmasters are all required to make quarterly returns, and when you tabulate the returns from all the offices on a route you have specific data of the amount of work done on that route at each office?—A. Yes, sir; but we have a case now in Idaho in which a post-office has been established and it is represented that three or four thousand people are rushing in there to a mine at the present time, and it is estimated that five thousand or six thousand people will be there within the next six weeks. Now, that office has just been started and of course there is no return of its business, and they want service twice a week

and want it immediately, and we have no information on which to decide the question.

Q. But that lack of information cannot exist longer than one quarter?—A. No; but there is a case where the people want the service at once, and we have nothing in the Department to guide us or to check their statements by.

By Mr. MILLIKEN:

Q. You get your information from the locality?—A. We get our information from anybody who comes in and makes representations, and then we have an investigation to see whether the statements are borne out. I mention this case to illustrate some of our difficulties, but of course such cases are very rare.

About the arbitration, I wish to say that when this submission was made between the counsel we had very little data on route 32024 (from Las Vegas to Vinita) on which to proceed, and we had to have that route investigated subsequently, and it took some time. That route was 726 miles long, and of course it took a good while to get up the information about it, but we did get it and we have it complete. Then we had very little information also in regard to a route from Soledad to Newhall, in California, and we had to have that gone over in the same way. So that if it had been decided to proceed with the arbitration, we would have been provided with evidence strong enough, we thought to justify us in going ahead.

Adjourned.

WASHINGTON, *May 5, 1884.*

The Chairman submitted a letter from Mr. William Pitt Kellogg, asking that in case the committee should decide to investigate the charges against him, he should be permitted to appear by counsel to cross-examine adverse witnesses, and to introduce other witnesses in his own behalf.

After some discussion as to the propriety of going into an investigation of the Kellogg case, the committee adjourned.

WASHINGTON, *May 7, 1884.*

Mr. William Pitt Kellogg appeared, accompanied by his counsel, Messrs. R. G. Ingersoll and J. M. Wilson.

The committee having under consideration the question whether it should go into an investigation of the matters charged against Mr. Kellogg in connection with certain star-route transactions, Mr. Ingersoll said:

Mr. Chairman and gentlemen of the committee: Of course we are not aware of what the scope of your investigation will be, and we have not examined with any particularity your authority or the resolution that gives you the authority, but what we would like is this: If any testimony is introduced here in any way affecting Mr. William P. Kellogg, we would like the privilege, first, of cross-examining the witness; and, secondly, of having witnesses called, whom we may designate, to controvert anything that may appear to be established against Mr. Kellogg. I believe that is about all we want. If the investigation takes such a course, why, we would like to be heard. I do not know of anything else that I wish to say upon this subject now.

Mr. J. M. WILSON. I will simply say, gentlemen of the committee, that our attitude in respect to this matter, as I understand it, is simply this: We have not anything to say as to what the scope of your inquiry ought to be. We are not here to oppose any direction that you may see fit to give this investigation. We are not here to throw any obstacle in the way of your making any investigation that you deem it your duty to make under the authority or the direction of the House of Representatives; but we are here, as Colonel Ingersoll has suggested, to ask of the committee that if the investigation takes a direction which shall involve the bringing out of any statement by any witness or witnesses affecting the honor or the integrity of Mr. Kellogg, we may have the privilege of examining such witness or witnesses, and, in so far as any such witness may give testimony reflecting upon Mr. Kellogg's honor or integrity, we desire to introduce evidence to disprove such statements. More than that I do not see that I can say. We think it is due to Mr. Kellogg that he should have that opportunity. I have just read the resolution under which you are proceeding. It is not necessary that I should read it or comment upon it here, but we would like to have the committee determine the question as to what is to be the scope of this inquiry, and if it opens the door to any testimony in the direction that Colonel Ingersoll has alluded to, and to which I also have referred, we beg of the committee that we may have an opportunity to meet that class of testimony. Outside of that we have nothing to do with this case. I think that in the spirit of entire frankness it may probably be well to say that the only witnesses of this character whom we anticipate your calling are Mr. Walsh and Mr. Price, and the reason why we anticipate their testifying is that Mr. Price's affidavit has been published, in which he is said to make certain statements. We know nothing of the affidavit except as we see it in the newspapers, and we know nothing of Mr. Price's testimony except as we heard it in the recent trial. As to Mr. Walsh, we have heard him testify, and we therefore know something as to what will be the drift of his testimony. Those are the two witnesses to whom we especially refer, and if Mr. Walsh is called, and you go beyond an inquiry as to the direct conduct of the Government officials or those who are charged with that investigation, and go out into the realm of the facts of the case, then it is as to that line of examination that we desire to cross-examine and produce further testimony. As to matters that Mr. Walsh might testify to concerning his relations with the Government officials or with the Government counsel, we have nothing to do with them. We do not pretend to know anything about that, and we care nothing about what may have occurred between Mr. Walsh and the Government counsel or officials. Those are controversies and quarrels as to which we have nothing to do. But whenever he gets beyond that, and you go into an investigation to determine the guilt or innocence of Mr. Kellogg, then we desire to be heard.

The CHAIRMAN. I will state that the committee caused a subpoena to be served upon Mr. Price while he was in this city, but he left the city without giving the committee any notice; sending by a friend of his a certificate to the effect that he was in a very bad condition of health. Further than that we know nothing of his whereabouts at the present time. While the committee was in session here awaiting his presence, supposing him to be in the city, it was suggested that it might be more convenient for the committee to make use of the testimony which Mr. Price had given in court in the case against Mr. Kellogg. That question, however, was not determined; but it is probable that in case Mr. Price's attendance could not be obtained we would be compelled to resort to the record of the evidence which he gave in court.

Mr. WILSON. I will say in respect to that, that if you conclude to go into the kind of investigation which I have just indicated we will not make any objection to your using the testimony that was taken before the court. We will stand upon no technicalities in respect to this matter; the committee may have that testimony; we will make no objection, and the committee may use it just as if Mr. Price had given it here under examination.

The CHAIRMAN. Assuming that the committee should desire to incorporate into its record the testimony of Mr. Price as given before the court in the case against Mr. Kellogg, and should determine to go no further, would you then desire to introduce any evidence?

Mr. WILSON. Yes; if that testimony is incorporated in your record, we shall, of course, want to answer it.

Mr. STEWART. You cross-examined Mr. Price on the trial, I suppose.

Mr. INGERSOLL. We cross-examined him only upon one point, specially reserving the right to finish the cross-examination; but of course the court would not allow a case to go on when it was admitted by the prosecution that that was their evidence, and their only evidence, and when it appeared from that evidence that a conviction was absolutely impossible.

Mr. STEWART. I understood that Walsh was summoned as a witness and was not examined. How, then, could the public prosecutor say that Price's evidence was the only evidence in the case? That is something which has puzzled me.

Mr. INGERSOLL. I think I can make that perfectly clear. Mr. Price made certain statements which he claimed to be the truth. Among other things, he stated that he had delivered to Mr. Kellogg certain postal drafts. Now, it appeared from the evidence—because these postal drafts had already been introduced—it appeared that they were paid, some in 1880 and some in 1881, and the prosecutor stated that the evidence of Price covered the whole ground; that is, that they might prove the same facts, or try to prove the same facts, by other witnesses, but that when the evidence was all in they expected that the facts shown by the other testimony would be as Price had stated them. Thereupon the court said that if that was the case the question had better be argued at once, because there was no need of wasting all summer in a trial, if a conviction was impossible. It was upon that hint that we spoke. Admitting all the facts which they claimed to have established, and all that they claimed they could establish—for they did not claim that they could establish other or different facts from those set forth by Price, but simply that they had more evidence showing the same facts—we admitted the truth of the facts alleged, for the purposes of the argument, as a demurrer admits the truth of the declaration or indictment.

Mr. STEWART. Your motion was in the nature of a demurrer to an indictment?

Mr. INGERSOLL. Yes, sir; and it was made really upon the suggestion of the court, because the first witness for the prosecution demonstrated that the case was different from the one mentioned in the indictment, and that they were not even remotely related, except that the name of the defendant was the same in each.

Mr. WILSON. He was the connecting link?

Mr. INGERSOLL. Yes, sir.

On motion of Mr. Stewart it was resolved that the committee should notify Mr. Kellogg's counsel of the result of its deliberations as to whether the investigation should extend to the Kellogg case.

Adjourned.

WASHINGTON, May 9, 1884.

JOHN T. MITCHELL sworn and examined.

By the CHAIRMAN :

Question. State your residence and occupation.—Answer. I reside in Washington ; I am a merchant. Now, Mr. Chairman, before we proceed any further I would like to have the question determined how far the committee have a right to interrogate me about transactions occurring in the grand jury-room. I have endeavored to inform myself in regard to the question and there seems to be about as much difference of opinion among legal gentlemen on the outside of the committee as there is among those inside the committee, and I do not desire to place myself in a position to be criticised by gentlemen inside or outside ; so that I would like to have the question determined.

After some informal discussion among the members of the committee, The CHAIRMAN said :

In answer to the request of the witness the chair will state the law of the matter as he understands it. In Bishop on Criminal Procedure, section 857, the law is laid down in these words :

Various reasons for this requirement of secrecy have been assigned ; one is to keep from an unarrested defendant the knowledge which would induce him to escape ; another is to prevent the indicted persons from meeting the evidence at the trial by perjured testimony ; another, to render the witnesses before the grand jury more free in their disclosures. Consequently, when the purposes of the secrecy are accomplished, it is the better opinion, contrary perhaps to some cases but maintained in most, that any revelations of the grand jury's doings may be made which justice demands. The testimony may come from a third person present, from a grand juror himself, or from one who was a witness before the grand jury ; he may be even questioned as to what was his own evidence.

In support of this rule laid down by the text writer there is cited the case of the Commonwealth of Massachusetts *vs.* Mead, 12 Gray, 167. That was a very learned court, of which Mr. Shaw was chief justice, and its opinion is therefore entitled to very great weight. In that case the court held that—

The only other question arising in the case is whether the testimony of grand jurors is admissible to prove that one of the witnesses in behalf of the prosecution testified differently on his examination before them from the testimony given by him before the jury of trials. As to the competency of such evidence the authorities are not uniform. The weight of them is in favor of its admissibility. On principle it seems to us to be competent. The reasons on which the sanction of secrecy which the common law gives to the proceedings before grand juries rests are said in the books to be three. One is that the utmost freedom of disclosure of alleged crimes and offenses by prosecutors may be secured. A second reason is that perjury and subornation of perjury may be prevented by withholding the knowledge of facts testified to before the grand jury which, if known, it would be for the interest of the accused or their confederates to attempt to disprove by procuring false testimony. The third is to conceal the fact that an indictment is found against a party, in order to avoid the danger that he may escape and elude arrest upon it before the presentment is made. To accomplish these purposes the rule excluding the evidence to the extent stated in the Commonwealth *vs.* Hill, 11 Cush., 140, seems to be established, and it is embodied substantially in the oath of office each grand juror takes on entering on the discharge of his duties. But when these purposes are accomplished the necessity and expediency of retaining the seal of secrecy are at an end. *Cessante ratione, cessat regula.* After the indictment is found and presented, and the accused is held to answer, and the trial before the traverse jury is begun, all the facts relative to the crime charged and its prosecution are necessarily opened, and no harm can arise to the cause of public justice by no longer withholding facts material or relevant to the issue merely because their disclosure may lead to the development of some part of the proceedings before the grand jury. On the contrary, great hardship and injustice might often be occasioned by depriving a party of important evidence essential to his defense, by enforcing the rule of exclusion having its origin and foundation in public policy, after the reasons on which this rule is based have ceased to exist.

The WITNESS. I want to put in an additional word just there, with the permission of the committee. I asked one of the judges of the supreme court of the District for advice in regard to this matter, and he said he did not feel disposed to advise, because in either case this question might come before him judicially.

Mr. STEWART. He meant that in case you should refuse to answer and should be prosecuted for contempt, he might want to issue a writ of *habeas corpus*.

The CHAIRMAN. It might come before him, of course. I will state further, as bearing upon this question, that it appears in our record here, from the testimony of one of our witnesses, that in the northern district of Alabama there was an investigation made recently of certain charges preferred by members of the grand jury against Mr. William H. Smith, the United States attorney there, and in that investigation the court caused an examination, under oath, to be made of each member of the grand jury as to what the district attorney had actually done and said in the grand-jury room.

Mr. STEWART. I have no doubt myself that it is a question of privilege. I think the committee has a right to ask these questions; but if Mr. Mitchell thinks that his oath of office as a grand juror precludes him from answering them, he has a right to say so.

The CHAIRMAN. I think that in this Alabama case Attorney-General Brewster instructed the district attorney to have the whole matter investigated, and the members of the grand jury were called before the court and their testimony was heard as to what has occurred in the grand-jury room. Now, in view of these authorities which I have cited, it is the opinion of the Chair that the reason for the rule of secrecy no longer exists in the case of this witness, and that the ends of public justice do not require him to withhold from this committee any information he possesses as to what transpired before that grand jury, especially as to the conduct and statements there of the United States attorney, Mr. Bliss, for this further reason: Mr. Bliss himself has already appeared before this committee and stated in detail what he did and said before that grand jury. That statement must either remain entirely uncontradicted or some member of the grand jury must be permitted to testify in reference to it. There can be no doubt that if Mr. Bliss had been merely a witness before the grand jury, and not the Government counsel, any member of the jury could be called to contradict or explain the testimony that he has given here. Why not extend the rule so as to permit members of the grand jury to explain the conduct and the statements of the district attorney in the grand-jury room? It seems to the Chair that there is no good reason why the rule should not be so extended.

Mr. Stewart suggested that the examination might proceed until some question was asked which the witness might decline to answer.

The WITNESS. Mr. Chairman, do you accept the suggestion made by Mr. Stewart that I shall answer so far as my own judgment dictates?

The CHAIRMAN. Certainly. If you claim your privilege at any time in reference to any inquiry that may be made of you it will be your duty to so state to the committee, and then it will be a question for the House to determine. Before proceeding with the examination of the witness the chair would be pleased to have an expression of opinion upon this question from the members of the committee present.

Mr. FYAN. I concur with you, Mr. Chairman.

Mr. CRISP. I have not investigated this question with a view to testimony given before a legislative committee. I will say, however, that

I have no doubt that where the ends of justice require a member of the grand jury to divulge the secrets of the jury-room in a court of law, he can be required to do so; for the reason that I do not believe it was the intention of the law to lock up in the breasts of the grand jury facts, the disclosure of which would tend to advance or further the ends of justice. How far that rule applies to a legislative committee I will not undertake to say, because I have not investigated that question; it has not presented itself to my mind at all.

The CHAIRMAN. If you regard this committee as a part of the House of Representatives, which is the grand inquest of the nation so far as the presentment of all persons who may be guilty of impeachable offenses is concerned, would not the rule extend as well to the House of Representatives, and therefore to this committee, as to a court?

Mr. CRISP. Possibly it might. As I have said, I have not investigated that question at all, and therefore I would not like to express an opinion about it.

Mr. STEWART. I think the reasons for secrecy have been answered already, and if a court has power, for the furtherance of the ends of justice, to make inquiry as to what transpired in the grand-jury room, I think that the supreme legislative authority of the land has certainly a right to make similar inquiry as bearing upon the good faith of an agent or an officer of the Government. Of course, the question of the effect of the oath upon the man's conscience is a question for him to settle.

The WITNESS. Mr. Chairman, is there any precedent for a case of this kind?

The CHAIRMAN. I have not seen any.

Mr. STEWART. I understand Mr. Mitchell's inquiry to be simply as to what he ought to do under the laws of the land. This is, to some extent, a new question. I do not know that the question ever arose before with reference to a legislative committee; but my personal opinion is, so far as I have been able to give the matter any thought, that we have a right to make this inquiry.

Mr. HEMPHILL. I think it is rather a dangerous thing to do, but still I think we can do it. I think the great object of the secrecy imposed upon the members of a grand jury is to secure immunity for witnesses from criticism for the testimony that they give before the grand jury, and I think the testimony given there ought always to be kept secret; but, as I understand, we are now going only into an investigation of the conduct of the district attorney, and I do not see that the rule I have mentioned would apply in his case particularly, especially as he has undertaken to give his own version of the matter here; and therefore I am in favor of hearing what Mr. Mitchell, the foreman of the grand jury, has to say.

By the CHAIRMAN:

Q. State whether you were at any time a member of a grand jury of the District of Columbia.—A. I was.

Q. At what time?—A. At the March term, in 1882, I think.

Q. Were you foreman of that grand jury?—A. Yes, sir.

Q. During the deliberations of that grand jury did Mr. George Bliss appear before you as counsel for the United States in any cases which you were called upon to consider?—A. He did.

Q. Please state whether he called the attention of the grand jury to the facts in the case of the United States *vs.* William Pitt Kellogg, and

also in the case of the United States *vs.* Kellogg, Brady, and Price?—
A. They were incidental questions.

Q. Was there evidence submitted before that grand jury by the district attorney in the case of the United States *vs.* Kellogg?

The WITNESS. Now, Mr. Chairman, are you not going a little too far? I think I ought not to answer that question.

Mr. STEWART. What is the question?

The CHAIRMAN. Whether there was evidence presented to that grand jury by Mr. Bliss as Government counsel in the case of the United States *vs.* Kellogg. I have not asked what the evidence was, but simply whether evidence in that case was presented. [To the witness.] What is your answer?—A. I decline to answer that question, sir.

Q. I will put another question: Did Mr. Bliss appear before that grand jury as the attorney representing the United States?—A. He did, sir; and before admitting him to the grand jury room as counsel for the United States, I investigated to ascertain whether he had been sworn as assistant district attorney, and finding such to be the fact, he was admitted to the grand jury room.

Q. You may state (as you have already made such returns to the court) in what cases you made presentments at that term?

A. (Referring to a memorandum.) I find by reference to the court record that in case No. 14,336, the case of Dorsey, Brady, and others, the presentment was made on the 20th of May.

Q. Was that the first indictment against Dorsey, Brady, &c.?—A. Yes, sir. This that I have here is simply a note of my own. I find that in cases No. 14,357 and 14,358, presentments were made on the 17th day of June.

Q. Were there presentments made in other cases?

The WITNESS. Connected with star-route matter?

The CHAIRMAN. Yes.

A. I do not recollect in regard to that. These presentments were made on the 17th of June; the indictments were ordered and presented to the court on the same day, and the grand jury were discharged on the same day.

Q. How long was that grand jury in session?—A. About three months. It seemed to me about forty years.

Q. Have you read the testimony of Mr. George Bliss given before this committee in reference to the cases which he submitted to that grand jury?—A. I have.

Q. Is there any part of that testimony given by Mr. Bliss as to what he did before the grand jury and the evidence which he submitted there, in regard to which you desire to make any explanation or statement?—A. Yes, sir; there are some matters in regard to which I would like to say a few words. From my reading of Mr. Bliss's testimony it appears that in the Dorsey case where the indictment was found there is no question made at all. There is very little reference made to it by Mr. Bliss. What he has to say is mostly in regard to the Salisbury and Price case. In one of his statements, page 164, in reply to a question, or perhaps in connection with his general statement as to why there was so large a number of witnesses brought here, Mr. Bliss says:

Of course, therefore, we had to be very careful not to bring unnecessary witnesses, and at the same time we wanted to bring, as far as possible, witnesses who would be fair, and it required a great deal of care and occupied a great deal of time to make up the list. Then, too, of course, we must have witnesses to prove our whole case as to a given route. If we brought five or six witnesses here in relation to any one route, at heavy expense, and missed one whose testimony was necessary to cover a particular point, our chain was broken.

I make reference to that simply because I propose to refer to another part of his testimony in connection with it. On page 200, in referring to the Salisbury matter, he was questioned by the chairman and answered as follows:

Q. Before you leave this subject, let me ask if you can explain the statement you made yesterday with regard to the papers in the Post-Office Department being very meager as to the Saulsbury matter?—A. I stated I had no evidence on the subject. My impression is simply gained from this fact, that when you find a route of the Dorseys, a route 150 miles long with perhaps ten or a dozen post-offices on it, extending over four years, you will find a pile of papers very frequently 6 or 8 inches thick, and you will find a vast mass of papers which, if you could take up Mr. Woodward's analysis in the cases, you will see how these little things that are on file there dovetail in with affidavits and information that was given with regard to the routes, and which go very far to make up a complete case. When we came to the Saulsbury indictment, we found nothing there but the merest formal papers. There was not anything that inculpated anybody, except there was a big order of expedition. While it is of course possible that the Saulsbury combination did their business in a different way, and they did not put on file such things, yet it is hardly probable, because a great many of those papers, for instance, would not come from the contractors; they would be complaints from people along the routes, stating the mail was not carried, and all that sort of thing, which would go on file with the papers of the route to which they related. We did not find anything of that kind in the Saulsbury cases. The difference was very marked. Mr. Woodward discovered it and said nothing about it, because really I was so very busy that Mr. Woodward and I had very little time to confer except with regard to more important matters. But when we did get an opportunity to talk over the matter I found the same thing, and there was no evidence that anybody had taken any papers at all.

And he says that when that matter was brought to his attention afterwards by Mr. Woodward he found upon investigation that it was true and he remarks in another part of his testimony that the case had eventually been "milked" before he got to it.

Q. Do you give this as a reason for the grand jury not making a presentment in the Salisbury cases?—A. No; I do not pretend to give any reasons as to why the grand jury did not find an indictment. It is patent to everybody that the grand jury did not find an indictment, and they had their reasons for not finding it; and the only protection I ask is that I shall not be required to give the reasons why the grand jury acted as they did.

The CHAIRMAN. I do not ask that.

The WITNESS. No, I understand not; but that is all the protection I ask. Now, in another part of Mr. Bliss's testimony, page 170, he says.

I had no evidence of it; but I believe, and believe implicitly to-day, that the files of the Post-Office Department, so far as they related to certain of the Salisbury routes, had been interfered with—in a technical phrase, had been "milked," and that many of the papers had disappeared.

Mr. CRISP. Mr. Chairman, this evidence is all before us, and I do not see the necessity of reading it again by piecemeal.

The WITNESS. The only purpose I have is to show that the action of the grand jury was perfectly justifiable according to Mr. Bliss's own statement; to show that he did not get the witnesses there that he expected, and that he gives three or four instances in which the witnesses that he expected to produce either did not appear, or, when they did come, did not testify as he had expected.

Mr. CRISP. Well, I submit that we are not investigating the conduct of the grand jury at all.

The CHAIRMAN. No; but I suppose this is admissible, not as relating directly to the conduct of the grand jury, but in reply to testimony already given by Mr. Bliss before this committee.

Mr. CRISP. But we have that testimony before us now, and therefore I do not see the use of having it read to us again.

Mr. STEWART. Mr. Mitchell is not called upon to defend the action of the grand jury; nobody makes any imputation upon them.

The WITNESS. Mr. Bliss does, in his testimony.

Mr. STEWART. Not as to the Salisbury cases.

The WITNESS. That is just where he does it.

Mr. CRISP. But if there are other portions of his testimony which militate against or explain those portions, all that testimony is before us, and it is to be assumed that we will consider all that is before us.

The CHAIRMAN. Do you desire to have this part of the testimony of this witness excluded, Mr. Crisp?

Mr. CRISP. No, sir; but I do not see any necessity for repeating here what is already before us.

The WITNESS. Mr. Bliss in his statement says that he put certain "briefs," which are printed in his testimony, before the grand jury. Mr. Bliss never left a brief or paper in possession of the grand jury for one minute.

By the CHAIRMAN:

Q. In making that statement do you refer to the printed brief marked A, which appears on page 173 of our record, and to the briefs marked B and C, which appear on page 174, and to the one marked D, which appears on page 175?—A. Yes, sir. I have no reason to say that those papers were not in the grand-jury room, but suffer me to explain. Mr. Bliss came in with piles of papers, sometimes with a hamper basket full of papers which it required two men to carry. That was so in the Dorsey case particularly. Every morning he came down to the grand-jury room with those immense clothes-baskets filled with papers, which it was just impossible for any grand jury to read. These "briefs" of the testimony, which he desired to refer to, Mr. Bliss brought with him, and he first selected a package of papers and then took out of the jackets such papers as he desired to lay before the grand jury and read them for our information.

By Mr. STEWART:

Q. Do you say that he read the papers referred to in the briefs?—A. It is utterly impossible for me to say whether he read all the papers or not. I could not begin to answer that question. I could not say whether he did or not. There was a vast amount of documentary evidence there. I went to the judge and asked the question whether the grand jury were compelled to accept all this mass of material—basket-loads of it—as being evidence.

By the CHAIRMAN:

Q. What was the instruction of the court on that point?—A. It was that if we believed that they were official documents from the Post-Office Department, we should accept them as evidence.

By Mr. STEWART:

Q. They were not withheld from your inspection, I suppose? They were open to your inspection, were they not?—A. They were all there. Mr. Bliss had been, as he says, two years eating and sleeping and breathing the Star-route cases, and here were a lot of laymen just brought into the case and expected to make an investigation in regard to it in the course of a few days. But Mr. Bliss never left the grand-jury room leaving any papers in our possession.

By the CHAIRMAN:

Q. Were those large baskets of papers which you have described carried out of the grand-jury room every day?—A. Yes, sir; when the court adjourned they were carried out.

Q. Were they carried out when Mr. Bliss went out?—A. Yes, sir; they went out with him. Not a scrap of paper from the Post-office Department in the shape of an official document was ever left in the possession of the grand jury for an hour. It would seem to me from the reading of these “briefs” that they were simply Mr. Bliss’s own briefs or private notes of the testimony that he desired to present. For example, in one place he says:

It would seem, however, that so far as the people everywhere, *except at Hamlington*, were concerned, this unauthorized change, while benefiting the contractors, certainly did not injure any one else. But it was a violation of them contracts.

In another brief he says in regard to French: “This fact, I think, I failed to call to the attention of the grand jury.” From the reading of these I would suppose that they were simply his private notes or briefs of the testimony that he desired to present.

Q. Can you state whether the documents referred to in the briefs were read to the grand jury and explained?—A. It has been two years since these things took place and I could not say. I can say that it is impressed on my mind very positively that in several cases, I would not like to say how many, the oral testimony did not bear out the documentary evidence.

Q. Now, I will return to the question to which objection was made: Was there any documentary or oral evidence submitted to that grand jury by Mr. Bliss in the case of the United States *vs.* William P. Kellogg?—A. Yes, sir; there were incidental matters brought there in regard to Mr. Kellogg.

Q. Incidental matters?—A. Yes, sir.

Q. Were witnesses examined?—A. Yes, sir.

Q. Who appeared?—A. Mr. Walsh.

Q. Were there any other witnesses produced in that case?—A. None that I recollect of. I could not say positively.

Q. Was Mr. Walsh sworn and examined by Mr. Bliss in the presence of the jury?—A. Witnesses are not sworn in the presence of the grand jury. The witness goes before the clerk of the court and is there sworn, and a certificate is issued that he has been sworn, and then he is permitted to come before the grand jury.

Q. Did Mr. Walsh appear there and testify?—A. Yes, sir.

Q. How long was he in the presence of the grand jury?—A. Twenty minutes, I should think, would be the limit of the time. I may be mistaken in regard to that.

Q. Did he present any documentary proofs in connection with his oral testimony?—A. Yes, sir; he had some papers with him.

Q. Did he read them to the grand jury, or were they read to the jury?—A. Some, he did; he did not read all the papers that he brought with him.

By Mr. VAN ALSTYNE:

Q. Do you know why he did not read all the papers?—A. I do not.

Q. Was he interrogated by Mr. Bliss as to all of them?—A. He was interrogated in regard to certain facts, matters connected with the case; but whether in regard to all of them or not I do not remember; I could not say. Mr. Walsh kept possession of his own papers. Taking a seat in the center of the grand-jury room, as the witnesses always did, he drew up a chair this way [illustrating] and put his papers on it. I was not within ten feet of him, consequently I could not say whether Mr. Bliss interrogated him in regard to *all* the papers that he had in his possession or not.

Q. Did Mr. Bliss make any statement to the grand jury with regard to the effect of Walsh's testimony or in what way it should have been considered?—A. That is a difficult question to answer. You had Mr. Bliss here long enough to know him pretty well in regard to his manner. He was always talking in regard to something; what was his particular line of thought and idea and language at that particular time I could not pretend to recall now.

Q. Did he prepare and submit to the jury in that case a bill of indictment against Mr. Kellogg?

Mr. STEWART. They do not prepare the indictment until after the bill is found.

Q. The practice here is to file the information first, and upon the presentment by the grand jury the court orders an indictment to be prepared. Then the indictment is prepared and submitted to the grand jury and the foreman indorses it.

Q. And it never was presented in this case?—A. As there was no presentment made to the court of course there was no indictment.

Q. Was there a presentment made by that grand jury against Brady and Price?—A. Not unless it was in one of these three cases which I have referred to. I have no recollection of the names; I could not call up the names.

Q. Did Mr. Bliss state to the grand jury that it was a serious matter to indict a United States Senator?

Mr. VAN ALSTYNE (interposing). Did he say that either in words or in substance?

A. Personally I have no recollection of Mr. Bliss ever having made that remark, and I inquired this morning of two members of the grand jury, who were with me, if they had any recollection of it, and they said that they had not. Further than that I cannot go.

By the CHAIRMAN:

Q. Was it known to the grand jury that the Kellogg who was mentioned by Mr. Walsh in his testimony was Senator Kellogg?—A. Yes, sir.

Q. That fact was known to the grand jury?—A. Oh, yes.

Q. Was there any other evidence in that case brought to the attention of the grand jury than that which was brought to their attention by Mr. Bliss—any testimony, paper, or document in the case?

The WITNESS. In the Kellogg case?

The CHAIRMAN. Yes.

A. The Kellogg case was not an individual case. The Kellogg case was only an addendum to the Brady case.

Q. But Kellogg was subsequently indicted.—A. That was by another grand jury. I do not know anything about that.

Q. In the case before the grand jury of which you were formen the charge was against Kellogg, Price, and Brady.

Mr. STEWART. He has not said that.

By Mr. STEWART:

Q. What case were you investigating at the time Walsh was examined?—A. I am not clear in my recollection in regard to that. It has been two years since.

Q. Was it not the Brady and Price case?—A. It may have been. I could not say. It must have been before the Brady indictment was found, from facts that are in my mind.

Q. Was it your grand jury that found the indictment against Brady and Price?—A. I think not; I think it was subsequent one.

By the CHAIRMAN:

Q. What are we to understand by the word "incidental," which you used a while ago in relation to the Kellogg matter?—A. That Mr. Walsh was brought there as a witness in connection with the case we were examining, but I have no recollection that any presentment was made against Mr. Kellogg in which Walsh was a witness before our grand jury.

By Mr. STEWART:

Q. Then what was the case to which you refer?—A. It must have been the Dorsey-Brady case.

By Mr. VAN ALSTYNE:

Q. Then, so far as Kellogg was concerned, he was not accused before that grand jury except as it came out incidentally in the testimony of this witness Walsh in another case?—A. Exactly so, sir. You tell it better than I can tell it myself.

By the CHAIRMAN:

Q. Then, if I understand you, there was no presentment at all in the case against Kellogg and Brady *as such*, but the case which you were investigating was the case which was subsequently tried, known as the Dorsey-Brady case?—A. Yes, sir.

Q. That was the case in which Walsh had testimony before you?—A. Walsh was testifying in the Brady-Dorsey case.

Q. Then you did not have your attention specially called to another case in which the defendants would be Brady, Kellogg, and Price?—A. No, sir.

Q. Was there any other statement made by Mr. Bliss before that grand jury to which you desire to call attention?—A. I only desire to call attention to the fact that when the grand jury got through Mr. Bliss was perfectly satisfied with our action.

Q. He was not "sick" then?—A. No, sir; he got "sick" afterwards.

Q. Was the Venita and Las Vegas route investigated at that time?—A. Yes, sir.

Q. State what Mr. Bliss said to you after you got through, about being satisfied with your action.—A. After the vote had been taken by the grand jury, Mr. Bliss was in the adjoining room, and I sent for him to come in and said to him: "Mr. Bliss, we have found certain indictments against certain parties"; and I read them over to him. He said, "I am very much obliged to you, gentlemen. You have had a long, tedious case; you have been very patient in your investigation. There is one other case in which I would like to have had an indictment, but I presume that the evidence placed before you was not sufficient to justify you in finding an indictment. I am very much obliged to you for your courtesy." Little pleasant remarks of that kind, and he evidently left the grand jury under the impression that they had done their duty to his entire satisfaction.

By Mr. VAN ALSTYNE:

Q. Did you understand what other case he referred to?—A. No, sir; not from that remark.

The CHAIRMAN. He explained that here. It was the case of the Soledad and Newhall route.

The WITNESS. And yet he says in his testimony that his witnesses did not testify to the same state of facts before the grand jury that they testified to when they were out on the plains, and that witnesses who

were very important as connecting links were not produced; and he states that it brought home to him the truth of one of his own theories, that if he got five witnesses to testify in a case, and did not get the sixth, whose testimony was necessary to complete the chain, the five that he did get would be of no use to him.

Q. In the cases of the Venita and Las Vegas, the Wells and Hamilton, and the Fargo and Pembina routes, which were dismissed, and also in the Soledad and Newhall case, did Mr. Bliss express to you at any time any surprise that you had not found indictments?—A. No, sir; he did not. On the contrary, he says, in regard to the Wells and Hamilton route—

Asto O. J. Salisbury, he seems to have been a sort of dummy. Monroe Salisbury was the sole contractor. His route was certainly false. If Brady is not included, there are not *two* conspirators, unless Gilmer can be included.

Q. How long were you investigating the Venita and Las Vegas route?—A. I could not tell you; I have no recollection. The manner of proceeding of the grand jury was this: These cases were brought up and the witnesses were brought here from all over the far West. They came in detachments. Witnesses on one route would be here now, and perhaps in half an hour there would be a witness on another route, and after that a witness on another route would come in, so that perhaps in the course of the day we would have five or six witnesses before us upon as many routes.

By Mr. FYAN:

Q. Did you reduce their evidence to writing?—A. I will tell you in a moment. The witnesses were introduced as I have stated. The secretary of the grand jury and myself took the numbers of these cases upon separate sheets of paper, and as each witness was called to be examined we took notes of his testimony as we went along. Then that witness was dismissed, and some other one was called in reference to another route, and we would take up the sheet of paper on which we had previous testimony in regard to that same route, and would take up the connection and go on. Then the next witness would be, perhaps, on a third route, and we would take up the sheet of paper belonging to that route and take notes of his testimony. Those sheets of paper were put in a drawer, and kept under lock and key until we got through with the entire investigation. In that way we had notes of the testimony of each particular witness as it progressed. Of course we could not undertake to remember the testimony on all those routes.

Q. What became of the sheets?—A. A committee was appointed to burn them up and they were destroyed.

By the CHAIRMAN:

Q. Was there any other record kept?—A. No, sir. When we came to the end, I read over the entire testimony as I had taken it down and as the secretary had taken it down.

Q. When the testimony was read over, was there a vote taken as to whether you would find a bill in each case?—A. Oh, yes; of course.

Q. Did you ask any instructions from the court as to whether you should keep a record of your proceedings and return it to the court?—A. No, sir.

Q. You had no instructions on that subject?—A. We did not intend to keep any record.

Q. Did Mr. Bliss give you any instructions as to whether you should keep a record of your proceedings?

By Mr. STEWART :

Q. Please state whether, to your knowledge, any outside or improper influence of any description, from any source, was attempted to be exercised with reference to the action of the grand jury upon those cases during the pendency of your inquiry.—A. In answer to that, I would like to state that the members of that grand jury were as good a class of men as could possibly be picked out anywhere. I never saw a better class of men on an average. Some of the very best citizens here, merchants and business men, were on that grand jury. Of course there were some that were not educated, but they were men of good common sense, and I don't think I ever saw the names of a better grand jury called in this District than that was. And, knowing the statements that had been made in regard to previous grand juries, that they had been tampered with and that they were under the espionage of detectives and that class of people, I was careful whenever the opportunity occurred to caution the members of the jury in regard to conversation of any kind with anybody in connection with anything that occurred in the grand-jury room, and I do not believe that a single solitary iota of effort was made, in any way, shape, or form, to influence a single member of that grand jury. I think I can say that there were not more than five members of that grand jury, to the best of my recollection, who would have known Brady or Dorsey or Kellogg or Price or Walsh if they had met them in the street.

By Mr. CRISP :

Q. Did you examine or have before that grand jury in those cases any witnesses or any evidence not brought or sent before you by the counsel for the Government?—A. No, sir.

The CHAIRMAN. That has reference, I suppose, to the question whether a Congressional document giving the proceedings in the contested-election case between Messrs. Spofford and Kellogg got into the grand-jury room?

The WITNESS. No, sir; it did not.

By the CHAIRMAN :

Q. I would like to know whether you examined any witnesses or documents that were not sent or brought before you by the Government counsel?—A. No, sir; members of the grand jury had seen something of this investigation in which Mr. Walsh appeared before one of the Congressional committees. Some of the members of the grand jury had seen the document and read it, and perhaps it was talked about in the grand-jury room, but not as testimony or evidence; nor was it used before the grand jury in any way.

Q. Was the book in the grand-jury room?—A. I cannot say whether it was or not. I have no recollection that it was.

By Mr. STEWART :

Q. Was there any indication which you observed in the course of your inquiries of any disposition on the part of the representatives of the Government, the district attorney or anybody else, to suppress any evidence?—A. No, sir; I think not. I could not say that. As I said before, witnesses came before that grand jury, not only in those cases, but in other than the star-route cases, where documentary evidence was read to them with their own signatures to it, and they denied any knowledge of the extent to which it went.

By the CHAIRMAN:

Q. Did or did not Mr. Bliss call the attention of the grand jury to the fact that the evidence before you disclosed a case against Kellogg or against Kellogg in connection with Brady and Price or others?—A. No, sir; we had nothing to do with the Kellogg case at all.

Adjourned.

WASHINGTON, *May 10, 1884.*

The CHAIRMAN. I will state to the members of the committee that I have received a letter from Mr. John A. Walsh, in which he calls attention to the fact that some of the testimony given by Mr. Bliss before this committee reflects upon him in regard to a claim which he has made against the Government in connection with his service as a mail contractor, and expresses a desire to appear before the committee and make a statement in reference to that. I supposed that such a request would come under our general rule, and accordingly I have instructed the clerk to send Mr. Walsh a copy of our resolution adopted some time since, to the effect that whenever persons desire to appear before the committee in their own defense, they can do so at their own expense, and to inform him that we will be prepared to hear him on Monday next.

ELIAS S. HUTCHINSON sworn and examined.

By Mr. VAN ALSTYNE:

Question. Please state your age, residence, and occupation.—Answer. My age is forty-nine years; I reside in Washington; I am a merchant.

Q. Were you foreman of a grand jury organized in connection with the supreme court of the District of Columbia?—A. I was.

Q. When?—A. At the June term of 1882.

Q. Were you foreman of the grand jury that returned indictments against Brady and Price?—A. No, sir.

Q. Did the grand jury of which you were foreman return indictments in any of the star-route cases?—A. It returned no indictments in the star-route matters. Let me explain. We were called in session in an emergency—we were so instructed by the court. The grand jury had been discharged until October without being organized, and we were called in and organized about the 14th or 15th of July, instead of waiting until October. We were in session a few days and then adjourned until October.

Q. What was the object of calling that special session of the grand jury, so far as you know?—A. We were instructed by the court that there were some matters to be presented to us which it would be necessary to consider at once. I think the judge said they were matters that we must consider then.

By Mr. MILLIKEN:

Q. Were you informed that unless those cases were considered at once the statute of limitations would run against them?—A. I think the court so instructed us.

By the CHAIRMAN:

Q. Who appeared before that grand jury in behalf of the United States?—A. Mr. Bliss.

Q. The committee yesterday, in reference to the case of Mr. Mitchell, the foreman of a prior grand jury, decided that the rule of secrecy did not

apply as to the matters about which we interrogated him ; that Mr. Bliss had already, as the counsel who represented the Government before the grand jury, made a statement to the committee here in regard to what he had done before the jury, and of the evidence he had laid before them, and that that opened up the matter so far as he was concerned, and Mr. Mitchell was instructed to make a statement in reference to those matters except so far as his own conscience might dictate to him another course. The committee now propose to examine you in the same way, but if we should ask you any question that you think you ought not to answer, you may so state, and we will consider the matter further.

The WITNESS. Yes, sir; I understand; I do not know that you will ask me anything that I shall not be prepared to answer, but I think it is quite likely you will.

By the CHAIRMAN:

Q. What did Mr. Bliss state to the jury were the matters to which he desired to call your attention.

The WITNESS. Do you mean in the grand jury room?

The CHAIRMAN. Yes.

The WITNESS. Now, Mr. Chairman, I consider that the proceedings in the grand jury room are a matter that I am bound by my obligation to keep secret.

The CHAIRMAN. But Mr. Bliss made that matter public.

The WITNESS. He may have made his version of it public, and he may have told the truth or he may not; but I do not think that relieves me of my obligation.

The CHAIRMAN. If a witness before that grand jury had testified falsely, would not you be required in a judicial proceeding to testify as to what he had stated before the grand jury—as to whether he had made the same statements there that he had made before the petit jury? Your oath of secrecy would not relieve you from testifying in such a case. That is universally held to be the law of the matter. Otherwise a grand jury might be imposed upon by perjured testimony, and there would be no way of convicting persons who testified falsely before a grand jury. Clearly, therefore, that is not one of the matters which you are bound to keep secret.

THE WITNESS. Well, I am being instructed. I do not claim to understand the question fully.

Mr. VAN ALSTYNE. You have been told that Mr. Bliss has been examined as a witness before this committee in regard to the proceedings had before that grand jury. Among other things Mr. Bliss stated here that a case was presented to that grand jury accusing Mr. William P. Kellogg of crime. Is that a fact?

The WITNESS (after some hesitation). I don't know whether I shall answer that or not. I will tell you directly. I don't know whether that is a matter of record or not. I doubt if it is.

Mr. VAN ALSTYNE. That is an open secret.

The WITNESS. It may be an open secret.

The CHAIRMAN. The committee stated the rule of law to Mr. Mitchell as laid down in Bishop on Criminal Procedure as follows:

Various reasons for this requirement of secrecy have been assigned. One is to keep from an unarrested defendant the knowledge which would induce him to escape; another is to prevent the indicted persons from meeting the evidence at the trial by perjured testimony; another, to render the witnesses before the grand jury more free in their disclosures. Consequently, when the purposes of the secrecy are accomplished, it is the better opinion—contrary, perhaps, to some cases, but maintained in most—

that any revelations of the grand jury's doings may be made which justice demands. The testimony may come from a third person present, from a grand juror himself, or from one who was a witness before the grand jury; he may be even questioned as to what was his own evidence.

The WITNESS. The obligation that we took was not to divulge the proceedings of the grand jury, was it not?

Mr. VAN ALSTYNE. Unless called upon to do so under due process of law.

The WITNESS. No; there is no exception made; the oath does not make any exception.

Mr. VAN ALSTYNE. A witness is always to be governed by the instructions that he receives from the forum where he is called upon to testify. For instance, if you were called as a witness to give evidence in a court having jurisdiction of the matter, the court would instruct you that that was not a matter of privilege, and then you would be required, under law, to answer the question. Of course in such a case you are absolved by such instruction from all obligations and from all pains and penalties, either in conscience or otherwise.

The WITNESS. Well, I do not understand that I am relieved of any part of the obligation that I took as a grand juror. I do not say this to obstruct your investigation in any way. If I can do anything conscientiously to help you out I will do it; but I most certainly understand that the obligation I took there binds me to secrecy, and the theory of the organization of the grand jury, in my mind, is that the proceedings are to be strictly secret. If the district-attorney or any other man as a witness chooses to represent or to misrepresent what took place there, that is his business and not the business of the grand jury, as I understand it. I received my subpoena last night, and of course I took it for granted that this was the business you wanted me for, and that I was called here because I had been foreman of that grand jury, but I think I ought to have some advice in the matter before I am required to answer. My own opinion is that I cannot divulge the proceedings before the grand jury; but if I can aid you in any way without violating my obligation, I give you my word that I will do it. Before answering, however, I would like to have an opportunity to take some advice.

Mr. MILLIKEN. Who was the judge who held the court?—A. Judge Wylie.

Mr. VAN ALSTYNE. Did your grand jury find a bill of indictment against William P. Kellogg?

The WITNESS. No.

Mr. VAN ALSTYNE. The administration of oaths to witnesses who are to be produced before the grand jury here is done publicly, in open court, I believe?

The WITNESS. Yes; that is a matter of record.

Mr. VAN ALSTYNE. Walsh was sworn in open court, was he not, to give evidence in a case pending before that grand jury?

The WITNESS. The swearing of the witness is a matter of record.

Mr. MILLIKEN. Do you know of your own knowledge whether Walsh was sworn to give testimony before that grand jury? Did you see him or hear him sworn?

The WITNESS. We take a great many things for granted, you know. I did not see him sworn.

Mr. MILLIKEN. Then you do not know it of your own knowledge?

The CHAIRMAN. But you know that Mr. Walsh did give testimony before that grand jury. You know that of your own knowledge.

The WITNESS. You are getting into the grand jury room now.

The CHAIRMAN. That cannot be said to be a secret any longer, because Mr. Bliss has testified to it here.

Mr. MILLIKEN (to the witness). Are you willing to take legal counsel as to this matter, and then come before the committee?

The WITNESS. Certainly.

The CHAIRMAN. I want to call the attention of the witness and the committee to the fact that while this matter was secret at the time the grand jury were carrying on their investigations, it has been since made public by the Government counsel himself, and made a part of our public record here. [To the witness.] How long were you in session at that time?

The WITNESS. We were in session three days in July.

The CHAIRMAN. Were there any bills returned during that session?

The WITNESS. No; we made no presentments.

(At the suggestion of Mr. Milliken the witness was excused until Monday, in order to give him an opportunity to take advice in the mean time.)

WASHINGTON, *May* 12, 1884.

ELIAS S. HUTCHINSON recalled and further examined.

By the CHAIRMAN:

Question. At the last meeting of the committee you were excused for the purpose of enabling you to consult with counsel as to the extent to which you would go in answering questions in regard to what transpired in the presence of the grand jury, of which you were foreman; are you now prepared?—Answer. I have taken counsel, and I think that I am prepared to answer the questions that you will be likely to ask me, judging from what you said on Thursday last.

Q. Please state whether Mr. John A. Walsh was examined as a witness before the grand jury of which you were foreman.—A. He was.

Q. What, if any, cases were presented to that grand jury by Mr. Bliss for your consideration at that special term?—A. The Government counsel, Mr. Bliss, before we examined witnesses, told us that we were called together to consider the case against Senator Kellogg—charges or testimony and evidence that would be brought against Senator Kellogg—and we were urged to act at once and promptly because the statute of limitations was about to run.

By Mr. FYAN:

Q. You say you were “urged;” by whom?—A. By Mr. Bliss. I think it was on the 14th, 15th, 16th, and 17th days of July, 1882, that we met.

Q. Were there any other cases to which your attention was called?—A. There were no other cases. He told us that the testimony would be brought in that had been presented to the previous grand jury—testimony running in the same way, and very much the same testimony in which Mr. Brady and Mr. Price were involved; but they had been already indicted, and we were notified that we were not expected to indict parties who had been already indicted.

Q. When had Brady and Price been indicted?—A. At a previous term of the grand jury.

Q. Then there was but one case to which your attention was called at that term?—A. Only one case.

Q. What witnesses were called before you?—A. Only Mr. Walsh, and some of the clerks from the Post-Office Department, to verify papers.

Q. How long was Mr. Walsh in the presence of the grand jury?—A. The two days' sessions; I suppose on Thursday several hours, and on Friday the whole session—I guess four or five hours. I don't remember exactly. It was a very hot day I remember.

Q. Was he interrogated about matters in that Kellogg case, before the grand jury?—A. Yes, sir; by Mr. Bliss.

Q. Did he present any documentary evidence in addition to his oral statements?—A. He had some papers—very few.

Q. Do you remember what kind of papers they were?—A. He had, I think, two or three drafts or checks that bore evidence of having been paid, and also a telegram, I remember, signed "K," I think, but I don't remember what the telegram said. I only remember the fact that he had a dispatch.

Q. You say it was signed "K." To whom had it been sent?—A. As I remember, it was directed to Mr. Walsh. This point is not very fresh in my mind. It is nearly two years since, and I forgot it as much as I could. I supposed I never was to tell anybody of it, and it is nearly two years past, and I have not carried it in my mind. What I say is to my best recollection, and I may say something that I would want to correct later, because as the subject comes up my memory may be refreshed.

Q. Were there any postal drafts presented to the jury?—A. Now, I should say not; the papers that I have mentioned comprised all that he showed us, I think; I think there was a file of three papers.

Q. Were there any checks or promissory notes?—A. I think there was a file of three papers; whether they were checks or notes or drafts, I cannot remember; but they were some evidences of a claim; my impression is that they were checks; there may have been a draft among them, or they may have been two checks and a note.

Q. Was there any evidence produced as to the time of payment—as to whether they were barred by the statute of limitations?

By Mr. FYAN:

Q. (Interposing). State when they were drawn?—A. I could not tell you; I haven't the remotest idea now when they were drawn.

Q. Upon whom were they drawn?—A. I could not tell you.

Q. To whom were they payable?—A. I think the checks were drawn on Mr. Walsh, as a banker, by Senator Kellogg. That is my impression.

Q. What were the amounts?—A. I think that altogether they amounted to about \$4,000—the whole of the evidence that he presented of payments.

Q. Can you not give the dates?—A. No; I cannot give the dates.

By the CHAIRMAN:

Q. Can you state whether the date was a special subject of consideration, so as to determine whether the act was barred by the statute of limitations?—A. I suppose the dates were noticed; I noticed the dates at the time, I am sure, because I saw the papers; but that our attention was specially called to that point by any one, I do not now remember.

By Mr. FYAN:

Q. What became of those checks and telegrams after you got through with them?—A. Mr. Walsh took them away with him.

Q. Have you ever seen them since?—A. No.

By Mr. STEWART:

Q. Was Mr. Walsh fully examined concerning the subject-matter to which those papers which were submitted to you referred?—A. I considered that he was. I thought the examination was exhaustive.

Q. Who made that examination?—A. Mr. Bliss.

By the CHAIRMAN:

Q. It is well known that the grand jury failed to find a bill?—A. Yes, sir.

Q. Now, was that failure the result of insufficient evidence, or did it depend upon the question of the statute of limitations?—A. The statute of limitations was not considered by us. We acted entirely upon the testimony—the evidence.

Q. Was Mr. Price introduced before you as a witness at that time?—A. No, sir.

Q. Did his name appear in any of the papers?—A. Mr. Bliss had a large bundle or trunk-full of papers, and Mr. Price's name was in them very generally. There were contracts and papers pertaining to expedited routes, the name of which I do not remember; but Mr. Price's name was involved, I know.

Q. Do you know whether Price's name was mentioned in those notes or drafts?—A. I think the checks were drawn by Mr. Kellogg, as I have said, on Mr. Walsh as a banker, and I do not think Mr. Price's name was on those checks at all. I am almost certain that it was not. I haven't any recollection of Price's connection with them.

Q. And you do not remember that Mr. Price had anything to do with the papers that were before you?—A. Those that were in Mr. Walsh's possession, do you mean?

Q. I mean any papers that were before you.—A. No; I don't remember that Mr. Price's name was associated with those that Mr. Walsh had. I spoke of his name being on papers in Mr. Bliss's possession.

Q. Those related to his contracts for carrying the mails and to expedition?—A. Yes, sir; matters upon which he had been already indicted.

Q. Were any drafts presented drawn by Price?—A. There may have been. I think there was some evidence of indebtedness that was in a check among Mr. Walsh's papers, but its character I cannot remember at all, and whether Price was associated with it I cannot tell.

By Mr. FYAN:

Q. Do you mean some papers other than this telegram?—A. Some drafts—a time draft or a note.

By the CHAIRMAN:

Q. What was the object of presenting those papers?—A. They were brought out in Mr. Walker's testimony.

Q. For what purpose were they presented?—A. In considering the charge against Senator Kellogg as having received the money on these checks—that is, received money through Walsh, on the expedition of some mail contract.

Q. Did the evidence go to that extent; was their evidence to show payment of that kind?—A. There was testimony of that kind.

Q. Did that evidence connect it with the expedition of star-route contracts?—A. It pertained to the expedition of star-route contracts.

Q. Then, while there was evidence tending to show payments on account of such contracts, was that evidence deemed sufficient to warrant

the jury in finding an indictment?—A. The testimony that was presented was not sufficient to warrant an indictment; I am speaking now from the result of the grand jury's action.

By Mr. STEWART:

Q. Was there any evidence of any misconduct or attempt to conceal or suppress evidence on the part of anybody representing the United States Government in that matter of inquiry before you?—A. No suppression that we could suspect. We could not suspect any suppression of evidence or testimony. We were promised on Friday that Mr. Price would be there Saturday almost to a certainty, but he did not come. I suppose, however, that the Government attorneys were not to blame for that.

By Mr. FYAN:

Q. Who made that promise?—A. Mr. Bliss.

By Mr. STEWART:

Q. Do you know why Price did not come?—A. I do not.

Q. Was any reason given?—A. Simply that he did not come. We understood that he was to come, but, as a matter of fact, he did not come.

Q. Do you know where Mr. Price was at that time?—A. I do not.

Q. Was he under arrest?—A. No. My opinion is that he was in Canada at that time. I think Mr. Bliss said that he had, until recently, been in Canada, but that he (Bliss) had learned, through a respectable source, that he would be there the next day.

Q. But he was not there?—A. He was not there.

Q. Was there any evidence that came to your knowledge directly or indirectly that anybody, in behalf of anybody charged with crime, or in behalf of the Government, attempted to influence improperly the action of the grand jury?—A. No, sir.

Q. There has been a good deal said about the jurymen in this District. What sort of a grand jury was that of which you were foreman?—A. Yes, sir. Well, I believe we were drawn in the regular way. That grand jury had been organized, I think, or had been drawn any way, and then when they were wanted by the court for this case they found there was not a sufficient number of the members in town. It was in the middle of summer, and a good many of them were inaccessible, and several tallymen were ordered to complete the panel.

Q. Do you remember how many?—A. I believe it was five or six. I don't know that I ever knew how many, but I think that was the number.

Q. What was the general character of that grand jury for respectability? The grand jury are not on trial, of course, but there has been a good deal said in the public prints in regard to the various bodies here that have tried to investigate this star-route matter, and I would like to have it appear what kind of men these grand jurors were.—A. Well, leaving out myself, they were a very respectable class of men, I assure you. I guess that they were strictly a business body; I think that all of them were engaged in legitimate business in town.

Q. Can you name some prominent citizens who were on that grand jury?—A. There was Mr. Stephenson, of Stephenson Bros.; Mr. Ross, the tobacconist; Mr. Johnston, secretary of the Howard University; Mr. Keyworth, the grocer; Mr. Sempken, Mr. George Truesdell, Mr. Edmonston, the grocer; Mr. Henry Willard, —.

Q. I guess you have named enough to give the jury a color of respectability.

The WITNESS. As you have drawn the "color line" [laughter], I might say that there were three colored members.

By the CHAIRMAN:

Q. Was any evidence submitted to the grand jury there that was not introduced by Mr. Bliss?—A. No, sir.

Q. Was there a book brought into the grand-jury room containing testimony in regard to a contested election case between Messrs. Spofford and Kellogg?—A. Some of the jury asked about that book, and as the duties of a grand jurymen were rather fresh to me, I asked him if it would be proper for me to send for it, and he told me it would be, and I made a requisition on the Congressional Library for the book, and it was brought in the next morning.

By Mr. STEWART:

Q. That testimony, as I understand, had some reference to the credibility of Mr. Walsh as a witness?—A. Well, I looked it over and I did not see that it had anything in the world to do with what we were examining Mr. Walsh about, and when we were through with the testimony on the case Mr. Walsh spoke of the book, and I said, "There is nothing there that interests you or me"; and I think he misunderstood me, because he seemed a little impetuous about it, and Mr. Bliss right away said that he thought it was only fair to Mr. Walsh that he should be allowed to make an explanation, and I said, "Certainly, if he wants to make an explanation, but I don't see that there is anything there that interests him or the jury, or that has anything to do with Mr. Walsh's testimony here, calling it in question in any way."

By the CHAIRMAN:

Q. Was there an extract read from that book before the grand jury or in the presence of the grand jury?—A. There might have been at that time in making this explanation by Mr. Bliss.

By Mr. VAN ALSTYNE:

Q. Who suggested to you that that book had better be got?

Mr. STEWART. He did not say that anybody did.

Mr. VAN ALSTYNE (to the witness). I am asking you.—A. Some member of the jury.

Q. Do you remember who?—A. Well, I would not answer if I did.

Q. You would not answer if you did?—A. No; but I do not remember.

By the CHAIRMAN:

Q. But you did apply to Mr. Bliss about it and he said it was proper to get it?—A. Yes; I asked him if it was proper to send for it, and he said it was.

By Mr. FYAN:

Q. What was the object of getting the book? What reason did the man give for suggesting it?—A. Well, it seemed that there had been a Senate investigation, and I don't remember that any reason was given at the time the requisition was made further than that such an investigation had been carried on in a contested election case; I don't think that explanation was made at the time, but my impression is that the grand jurymen thought that Mr. Walsh's testimony before us conflicted with the testimony that he had given in the Senate investigation.

Q. Did Mr. Bliss ask any questions of Mr. Walsh tending to bring out that fact before the jury?—A. Not until this examination which Mr. Walsh had requested.

Q. Did he then ask any questions of the witnesses tending to show that he had testified differently before the Senate committee?—A. Oh, no; there was no effort on the part of Mr. Bliss to show that Mr. Walsh had given testimony in that room in conflict with the testimony that he had given before the Senate committee, and which was published in the book; and it would be stretching a point very much to attempt it. I looked at the testimony in the book and passed it by, because it did not apply at all to what we were considering.

Q. Then what was the object of bringing this book into the grand-jury room?—A. The jurymen evidently thought there was a conflict until the book was brought in—that Mr. Walsh was testifying differently before us from the way he had testified before the Senate committee.

Q. Then the object was to discredit the testimony of the witness?—A. To discredit the testimony of the witness, doubtless—at least, to inform the jury rather, I should say.

Q. Did you in that grand-jury room hear Mr. Bliss say that it was a very serious matter to indict a Senator of the United States?—A. Well, I don't think he said it was a *very* serious matter. He certainly said it was a serious matter.

Q. Did he say that before the grand jury?—A. Yes.

Q. Can you give all that he said in that connection?—A. I could not, but I remember that language. I would not attempt to repeat the conversation going with it.

Q. I should like to know the connection in which the statement was made; was it before or after the evidence was in?—A. Well, I don't think I remember sufficiently. I do not think I would remember that language but for the fact that there has been so much said about it. I have seen it in the prints. I think Mr. Walsh made the statement in the Tribune a few months or a few weeks afterwards that such an expression was used, and it having been then brought to my mind, I remembered it.

By Mr. STEWART:

Q. Was that expression made in the presence of Mr. Walsh?—A. I suppose so. I think it was during the testimony.

By Mr. FYAN:

Q. It was made before your deliberations as to whether you would or would not find an indictment?—A. Yes, sir; before our deliberations.

Q. You say you cannot remember the language of the conversation in which that statement was made. Can you give the substance of it, and tell how the subject came up?—A. No; I don't remember the connection, and I would not remember the language only for it being brought up so soon afterwards.

By the CHAIRMAN:

After you had heard the evidence did you ask the opinion of the district attorney as to whether it was sufficient to find an indictment upon, or did he give any opinion?—A. No, sir; I did not ask him and he did not give any opinion.

Q. Did he make any suggestions as to the sufficiency of the evidence?—A. No further than his great apparent anxiety to get Mr. Price there, and his anxiety that we should consider Price's testimony. He was con-

fidant that Mr. Price would be there, and he seemed exceedingly anxious to have him there.

By Mr. FYAN :

Q. Did he make any remark to the effect that it would be necessary to have Mr. Price there in order to find an indictment?—A. No, sir; not as broad as that; nor I don't think he intimated that.

Q. Did he convey any intimation to you to that effect by his declarations?—A. Not that it would be *necessary* to have Price there, but he seemed to be exceedingly anxious that Mr. Price should be there.

By the CHAIRMAN :

Q. Did he say whether the evidence that he hoped to produce from the examination of Mr. Price was necessary to make out a case?—A. Well I think he said it would be "a clincher," or something like that. My impression at the time was that he wanted Mr. Price's testimony in order to make up the case; that it was necessary. I might have drawn that inference, though, because I thought it was necessary; or I might have drawn it from the manner in which Mr. Bliss said it; I don't know.

Q. Then you drew from his manner that it was necessary to have Price's testimony to make out a case?—A. No; I say I believe at the time he thought it was. Whether I was influenced in that by my own opinion, because I thought it would be necessary, or whether I was influenced by his manner, I do not know; but I certainly thought that he thought so.

By Mr. VAN ALSTYNE :

Q. Are you willing to say whether or not you submitted your views upon that subject to the balance of your associates?—A. I would not say that.

Q. That is, you are not willing to say whether you did or not?—A. No, sir.

By the CHAIRMAN :

Q. You would not say either way?—A. No, sir; I would not give you any of our consultations among ourselves.

Q. Failing, then, to obtain the presence of Mr. Price, what became of the case so far as Mr. Bliss was concerned?—A. Well, on Saturday we came together expecting to find Mr. Price there, and, he not being there, after deliberating, we went down to court and reported that we had considered everything that had been brought before us, and had made no presentments. That was on Saturday about 1 o'clock, I suppose.

Q. Did Mr. Bliss make any statements to the jury on that day as to the reason for Mr. Price's failure to attend?—A. Simply that he did not understand it.

By Mr. FYAN :

Q. After the evidence was all in, and you commenced deliberating, Mr. Bliss was not present, was he?—A. No, sir.

By the CHAIRMAN :

Q. Do you know whether any member of that grand jury was approached by outside parties representing either the Government or the accused, in order to prevent an indictment being found?—A. I haven't any idea that anybody was approached. I never heard an intimation of it, and I know nothing about it.

Q. You heard of nothing at the time that caused you to suspect anything of that kind?—A. No; nothing.

Q. Did that same grand jury assemble again in October?—A. Yes, sir; I think it was early in October.

Q. Were any star-route cases brought to the attention of the grand jury at that term of the court?—A. No.

Q. How long were you in session?—A. Until December.

Q. From what part of October until what part of December?—A. Well, without having anything more than a recollection—I have not consulted the records at all—I think we were called together in the first or early in the second week in October, and ran along in session until the first week in December.

Q. During that time who appeared before the grand jury to represent the United States?—A. The assistant district attorneys, Mr. Taggart, usually, and the other assistant, I don't remember the name.

Q. Did all those cases relate to ordinary criminal offenses in the District of Columbia?—A. Yes, sir.

Q. And not to star-route cases?—A. Not to star-route cases.

WASHINGTON, D. C., *May 10, 1884.*

JOHN A. WALSH sworn and examined.

By the CHAIRMAN:

Question. Please state your age, residence, and occupation.—Answer. I was thirty-eight years old last November; I reside in New York; I am a speculator.

Q. Were you at one time a contractor in the star-route service?—A. Yes, sir.

Q. In that connection you may state what claims you had against the Government, what expedition, if any, you obtained on your service, and what payments were made to you on that account.—A. I will commence by stating that I became a contractor through discounting drafts for the firm of McDonough, Kirk & Co.

Q. On what route or routes was the contract that you got?—A. On route 40101, from Santa Fé to Prescott.

Q. Were you interested in any other routes as a contractor?—A. Later on I was; but the interest was really in relation to the same route.

Q. Just explain your connection with the Government in relation to that route 40101.—A. Well, sir; I, in the course of my business, was applied to by the firm of McDonough, Kirk & Co. to discount some drafts for them, which I did. Later on they asked for still more money, telling me they had been awarded additional service. They had just then been awarded the contract on the route from Santa Fé to Prescott. They told me further, that they expected to have the service increased; that is to say, the service expedited and the pay increased. They dwelt at great length upon that, and represented that it would require considerable money. I told them I was willing to advance the money if I felt reasonably sure of being secured in my advances. They said that there would be no sort of doubt about that; that the service on the route from Santa Fé to Prescott would undoubtedly be expedited and the pay increased. They told me that if I had any doubt about it I might go to the Second Assistant Postmaster-General and inquire of him. I said I

certainly would have to go to him, because the amount was too large for me to take any risk about it, and the pay on the route as it stood, of course, would not justify any further advances.

Q. State what amounts you had advanced already.—A. At that time perhaps I had discounted warrants or postal drafts amounting to \$4,000 or \$5,000, and the contractors represented that they wanted a very much larger sum, as they did.

Q. How much more money did they ask?—A. It really amounted to \$36,000 before I got through with it. I went to Mr. Brady, the Second Assistant Postmaster-General, and told him that these gentlemen were very impecunious and wanted more money, and I said to him that it would not be advisable for me to give them more money unless there was some show that their pay would be increased. He said there would be no doubt about it; that I could loan them money with perfect safety, that they were reputable contractors, and, generally, that I would be safe, he thought, in advancing to them. I accordingly did so. To show you that I went into this entirely as a commercial transaction, I may state that I went to the Sixth Auditor's office to ascertain the condition of McDonough, Kirk, & Co., in that office; that is to say, to ascertain what drafts they had on file, and then I gave them this additional advance which amounted to \$36,000. Here [producing them] are the notes, the chattel mortgages, &c., of McDonough, Kirk, & Co. to me.

Q. Those papers which you now exhibit to the committee are evidences of the indebtedness of those parties to you?—A. Yes, sir; amounting to \$36,000.

Q. Upon what were those chattel mortgages given?—A. On the stock of the different mail routes that they had, and on such personal property as they had; further than that, they gave me all these vouchers as you see, these postal drafts, which were turned over to me in order that I might draw the pay.

Q. What do you mean by postal drafts?—A. Drafts on the pay of the contractor, anticipating his pay; when he comes and borrows money, he says to the banker, "I will give you my draft on the Post-Office Department on such and such a route; you file that in the Sixth Auditor's office, and when the pay comes due the Sixth Auditor will pay you to the amount of the draft."

Q. And you took postal drafts sufficient to cover the amounts which you advanced to those parties?—A. More than that; it ran through their pay for a long time; they did all that lay in their power to secure me. Further than that, I did something that perhaps has never been done in any other case in the Post-Office Department; I asked these men to write to the Postmaster-General, saying in effect that I had loaned them money, and that they would not sublet their contracts without my consent. Ordinarily, you know, the Department allows a contractor to sublet on application to the Postmaster-General; but I asked them to write to the Postmaster-General in the way I have stated in order to further protect myself, and you will see by this letter which I now show you that the Postmaster-General acknowledged the receipt of their communication, and said that "they shall not be permitted to sublet without my consent."

Q. Were your advances made on any other route besides 40101?—A. On all the service that these men had.

Q. The contractor in this postal draft which I have in my hand is George L. McDonough?—A. Yes, sir; in that case.

Q. Was he the original contractor?—A. Well, the firm held con-

tracts in the name of George McDonough personally, instead of in the firm name. Sometimes the contracts were in the name of U. E. Fisher. However, they were all partnership assets and considered as such, and hence it made no matter in whose name the contract was, as each party made this stipulation not to sublet without my consent. Here is a letter from E. L. Fisher, who also had some contracts. I call your attention to this to show you that my transactions with the Department were entirely legitimate and of a business nature. Mr. Bliss was aware of all these facts. The matter ran along for some time until there occurred a falling out in this firm, which was composed of McDonough, Kirk (a man living here), Jerome J. Hinds, and U. E. Fisher. Hinds seemed to be the aggressive man of the number. He fancied that he was not being dealt with properly. In point of fact they had no money, and having obtained from me the large amount which I have stated, I told them that I could not go any further; that they had no means at all which would justify me in going further, and I said to them, "Really, you had better look around and see if you can get some banker here to take this indebtedness and relieve me." Mr. McDonough said he was utterly at a loss to find any one, that he had applied to many people, but could not find any one who would take the matter off my hands; but he said he had some hopes through a firm known as Parker & Cluggage, a firm of mail contractors. He said that Mr. Parker, of that firm, or his representative, would be in the city in a few days, and he thought they would take the contract. You will remember that these contracts were in the name of George L. McDonough, especially route 40101, not in the name of the firm. Mr. McDonough came to me one day and said that the arrangements were perfected with Parker & Cluggage through their agent (a sort of a lawyer, not living here, however), who would pay me my money next day. I said I was very much obliged. That night Mr. Hinds arrived in the city, and went around to the various parties in interest and served notice on them that in case Parker & Cluggage bought the contracts there was to be war; that he, Hinds, was being left out entirely, and was being badly treated, and that there would be war—which meant an investigation.

Q. Was that Jerome J. Hinds?—A. Yes, sir. Mr. Hinds undoubtedly imagined that he was aggrieved, and perhaps he was; I don't know. At all events Parker & Cluggage declined next day to have anything to do with the matter; they said that Hinds was aggressive, and that they preferred not to get into trouble, and they declined to carry out the transaction. Accordingly McDonough told me that the arrangement was abandoned. I then asked him what he would do. I said to him, "You understand my position; I simply want my money, and I believe you want to pay me." He said that he did. I added, "Of course you cannot get any further money from me." He said, "Well, Walsh, the only thing I can do to secure you is to turn over the contracts to you; I will make you the subcontractor." I expressed assent to that, and I was accordingly made the subcontractor on the route from Santa Fé to Prescott. Mr. Hinds at once announced that there would be war to the knife, and commenced operations through his attorney, Mr. Nathaniel Wilson. He served notice on me that he wanted \$15,000 for his share. The contract price of the service on that route was then \$74,500 per annum. These men seemed to have no sort of an idea of figures or finance; they really seemed to believe that the contract was a bonanza—Hinds more than anybody else. I, of course, declined to comply with his demand. I was approached by several people who told me that I did not understand the business, and that I had

better pay Hinds. I said, "Inasmuch as the concern owes me \$35,000 or \$40,000 already, I am at a loss to understand why I should pay Mr. Hinds anything." They said, "Well, Walsh, you don't understand the business; Hinds will compel an investigation."

Q. With whom was this conversation?—A. With Mr. Stephen B. Elkins and a man named Kerens, particularly. They came to my office as friends of Mr. Brady and tried to impress upon me that I had better deal in a politic way with Hinds. I told them that it had gone beyond all policy, that it was a matter of per cent., that I did not see how I would "get out," any way, and that if I was going to lose, I might as well lose then as at any other time, and I said I would not pay Hinds. There ensued a great deal of trouble. Hinds commenced to attack the Post-Office Department and to attack Brady, and he really threw them all into the greatest state of excitement. However, there was nothing for me to do but to look on. Mr. Hinds threw all sorts of obstacles in the way. He would send telegrams and letters to Santa Fé representing that he was going to carry the day, that he was backed by the contractors, and that Walsh would be annihilated. While I was performing the service, and while it was being performed as well as it could be and as well as service out there is performed in the best times, notwithstanding that fact, the Department, moved, as I have always felt, by the aggressiveness of Hinds, and by fear of him, declared McDonough a defaulting contractor. Mr. Wilson was at the Department every day with Mr. Hinds, his client, and with Kirk. There seemed to be a complete division of the old firm; Fisher and McDonough on one side, and Hinds and Kirk on the other, and between the two sides they proceeded to grind me out; which they did quite effectually. I stood by and witnessed the process. I said to the Department, "The service is being performed, and there is no occasion whatever for annulling that contract. Of course there is a little disturbance there, but it will come out all right." However, the contract was annulled, and the route was put back to the original price, \$13,000 per annum—not to exceed that; service three times a week. It was then tendered to the bondsmen, in accordance with the law. The bondsmen in that case were Kirk, one of the partners, and a gentleman named Gleason, a Floridian, I think. They were tendered the service. Of course that was a result that they did not desire. They did not want the contract at \$13,300 a year; so, after some conference—indeed, after some time had elapsed, two or three weeks, I think—they acknowledged that they could not proceed with it. I had my stock on the route, and I said to the Department, "I will carry the mail pending this trouble"; and accordingly a temporary contract was made with me. I do not know but perhaps there was a total suspension of the service for awhile pending the Kirk and Gleason effort. However, this temporary contract was made with me. Later, I declined to carry the mail any longer at that price, saying that I did not want it at any such figure. Then, in accordance with the regulations of the Department, they went up the list. In such cases the contract goes up what they term, technically, "the list." In this case McDonough was the lowest bidder originally at the public letting under advertisement, and the next lowest bidder was J. B. Price at \$19,000. These, of course, are matters of public record. I noticed that the next highest bid was \$19,000, and I wanted to save myself if I could, so I went to Brady and said, "Mr. Brady, you are fully cognizant of all the circumstances surrounding my loaning money to these men; indeed, I was moved to loan to them largely by your representations in regard to them. Now, what can be done for me?" "Well,"

said Mr. Brady, "Walsh, under the law I will allow you to have the contract if you bid lower than the next highest bidder, who is Price." I said, "Then I will take the contract at \$18,500;" which was \$500, under Price's bid. I asked Mr. Brady what would be the chances for expedition and increase, representing, of course, as well as I could, what occasion there was for expediting and increasing the service; indeed, I felt that if there had been a necessity a short time before for daily service on that route, that necessity would necessarily increase as the railroad approached Santa Fé. Mr. Brady gave me no satisfaction. He said, "You will have to use your own judgment about that. If there is any necessity for an increase of the service, it will be increased; but you must use your own judgment." He was vague and unsatisfactory. To be sure, as soon as I got the contract, Mr. Hinds proceeded at once to show that it was a very infamous piece of business. He said that it was all wrong, and he began to resume his tomahawk and battle-ax, and paint, greatly to the terror of the Department. I noticed that Mr. Hinds had the entrée and could get any information he wanted. He knew a great deal better than I did what was going on on the route. He learned it through the Department. Shortly afterwards I instructed my agent out there to endeavor to get up petitions asking for the restoration of daily service on that route. He did so, and the petitions began to come in. I would speak to Brady about the matter occasionally, but I got no particular satisfaction. In the mean time the season progressed, and we were getting toward the month of July, 1879. I was spoken to by Mr. S. P. Brown, a friend of Mr. Brady's, the same gentleman who had seemed to act as an intermediary between Mr. Hinds and Mr. Brady in the matter of the increase that was awarded on this route in the first instance. Hinds, you will understand, was threatening war during all this time—threatening that he would have Congress investigate the matter of that contract, and charging that he had paid Brady \$16,000 for the increase of service, and that I was cognizant of it to the extent that I had advanced the money; that I had paid \$8,000 on his draft to S. P. Brown, which was true, but I knew nothing about what they were doing with the money. I simply paid Mr. Brown as I would have paid anybody else. Having agreed to advance the money to these parties, I paid it out as they directed. In addition to that, I was also aware that Mr. Brown held about \$8,000 of postal drafts on their routes, because the contractors came to me and asked me to relinquish my security to the extent of \$8,000. I asked them for what, and they told me it was to secure Brown. Well, I thought I had ample security outside of that, and I let them have those drafts. Now, you will understand, perhaps, why these men were afraid of Hinds. At any rate, I was told that there would be no use in my expecting to get any increase of service whatever unless Mr. Hinds was placated. "Well," I said, "gentlemen, this is astounding. This comes back to where I was before. If I owe Hinds, then I owe McDonough and Kirk and Fisher; yet here are their notes to me for \$36,000, and now I am asked to pay one of that firm a large sum of money to placate him." They said, "Yes, that that was the English of it; that that was what I would have to do or else nothing could be done in my case."

Q. Who told you that?—A. S. P. Brown; he told me that that must be done; I finally felt that there was a good deal of force in that view, and I concluded that I must do something, so I sent for Mr. Hinds; he came to see me in accordance with my request; I asked him what he wanted me to do; he said he wanted to be paid. I said, "Mr. Hinds, I do not owe you any money." "Well," said he, "Walsh, it isn't worth

while discussing that; you have had experience of what I can do, and if you want to go on and get your money, just make up your mind to do that, or else you will certainly get left." I said, "I rather think I shall from what I have observed so far, and I think the chances are pretty likely that I shall get left anyhow. Evidently," said I, "the Philistines are in the majority." "Well," said Hinds, "I am no Philistine." Said I, "Put it in figures: What do you want me to do?" Said he, "I want \$20,000." Said I, "Egad! it is \$36,000 now; \$20,000 more will make it \$56,000; the pay is \$74,000 a year, and the contract has three years to run. That is pretty, bad, Hinds, and I shall never see daylight." "Well," said he, "you are satisfied that \$74,000 is no pay for a daily mail on that route, are you not?" "Yes," said I, "I am satisfied of that; you men never knew what you were doing when you took that contract. Of course the price seemed to you a pretty big sum, but you never considered the disbursements. Now, what do you think—can I rely upon getting pay commensurate with the disbursements?" He said yes; that that was only a matter of a little work. I do not want to do any injustice to Mr. Hinds. When he becomes impressed with an idea, it becomes a religion with him, and I have no doubt that he religiously believed that I owed him that \$20,000. Of course it is difficult to understand how he could have arrived at that conclusion; but I have no doubt that he believed it. Well, the result was that we made an arrangement in writing, which I will read:

UNITED STATES INDIAN SERVICE,
— AGENCY,
Washington, M'ch 28, 1879.

In the event of the service on mail route No. 40101, between Santa Fé and Prescott, being given to me by the P. O. Dept. for the present unexpired term of contract at \$18,000 or \$18,500 per annum for a tri-weekly mail and schedule of 150 hours, and if this same service be increased to a daily service and a schedule of ninety hours, with an annual pay of \$98,000 or \$100,000, I agree to pay Mrs. C. B. Hinds the sum of twenty thousand dolls. This am't to be paid in such sums and at such times as may be agreed upon between myself and J. J. Hinds, it being understood that on my part I do the best I can in the matter, and so arrange payments as will aid the said Hinds and not embarrass or inconvenience myself. [You will see that it was quite an elastic agreement; I was to do "as well as I could."] Any money paid J. J. Hinds is to be credited on this side of this contract or obligation.

On the back are the following credits:

May 28. Received of Jno. A. Walsh the sum of one hundred dollars.

J. J. HINDS.

On the back of this paper is the following indorsement:

April, '79. Received on the within one hundred dollars.

June, '79. Received check of Lewis Johnson & Co. for \$40.

June 20, 1879. By cash, \$25.

June 28, 1879. By cash, \$10.

Received this July 23, 1879, \$2,000.00 on within.

Oct. 23, 1879. Received on the within \$1,000.00.

By Mr. FYAN:

Q. Was the pay increased?—A. Yes, sir.

Q. To what extent?—A. One hundred and thirty-four thousand dollars or \$135,000.

Q. Who got it increased?—A. I did.

By Mr. STEWART:

Q. Were those credits acknowledged by Hinds over his signature?—A. No, sir; but it was in the body of the agreement that the credits should be made on the reverse side of the original. After having agreed to pay Hinds there seemed to be no difficulty. The papers in the case, so to speak, the petitions or applications for increase of service, signed by citizens of Santa Fé and Prescott, and all along the route, seemed to

work the desired result. I was asked to make an affidavit in regard to the number of horses and men required to perform the service. I did so, and I will state here that the correctness of that affidavit has never been questioned by the Post-Office Department. There has never been the allegation made against it that there were not as many men and horses on the route as it called for, a charge which has been quite generally made in regard to the affidavits of contractors on the star routes. I made the affidavit, and the service was then increased to a daily mail, and the contract awarded to me at \$135,000 per annum, in round figures.

By the CHAIRMAN:

Q. How long after you made that agreement with Hinds was it that you obtained that expedition and increase of pay?—A. They were almost simultaneous.

By Mr. FYAN:

Q. With whom else did you divide besides Hinds?—A. No one else.

Q. Did you get it all?—A. Yes, sir.

Q. How much did you pay Hinds a year?—A. The credits show.

Q. Is that all?—A. That is all. The matter did not go very far. You will see that it petered out very quickly. Mr. Hinds went out to Santa Fé, not in relation to my contract, but about other business. He asked me to keep the fact quiet; that he had any interest in the contract; and of course I had no object in letting it be known so I said nothing about it. You will see that this contract was in the name of his wife. Mr. Hinds went out to Santa Fé in relation to some business of his own, and while there he did all he could to aid me; he behaved very nicely in the matter, and I paid him as he went along, as indicated by these credits. An investigation ensued. Mr. Hinds had made so much fuss, so much row, that he had gone a little too far, and the whirlwind began to be reaped. The newspapers commenced an attack upon this star-route system, and notably upon this route 40,101. It was held up as a sort of *bête noir* of the whole business. It was assumed by all the newspaper men that it was a fraud. I state the facts just as they were. It was treated as the very head and front of all the offending. The investigation commenced, and I was very early subpoenaed. I appeared before the subcommittee of which Mr. Blackburn was the chairman. I went into the matter and explained my relation to the contract, just as I am doing here now. I said to them in substance: "Gentlemen, here are my vouchers; here are my disbursements; you can look at them for yourselves; they show what I expended from quarter to quarter. I tell you you are making a mistake in investigating this route. It may appear to you as a monumental fraud, but I think you are turning your efforts in a wrong direction. I think you have taken perhaps the only route that will bear investigation." Of course there was no attention paid to that. Nobody looked at the vouchers at all; perhaps it was irksome. I said, "Here are the vouchers; either they are correct or they are forgeries. If they are forgeries, here are the names of the individuals; please send for them and examine them." That was pretty comprehensive. I put the case very clearly and plainly, and the result was that so far as that route was concerned we never heard any more about its being a fraud, and the newspaper gentlemen very frankly said they had made a mistake, and had taken up the wrong route.

Well, after this investigation I was approached by a mail contractor named Chase Andrews, a young man formerly a clerk in the Post-Office Department, who had become a contractor and a sort of an attorney, de-

voting his energies and intellect specially to the Sixth Auditor's office—really a very bright young man. He called upon me and said, "Mr. Walsh, here is a list." Well, I was glad to see any list, and I said I was favored. "You see," said he, "that you are down here for \$8,000." I said, "Favored again." He said, "Yes, you are favored again." I said, "What is that for, Andrews?" "Oh, well," said he, "Congressional business. You don't suppose we got that appropriation through for fun?" I said, "I do not know. I was examined very largely and exhaustively up there, and I didn't notice that anybody asked me for any money. My route was particularly the subject of investigation, but I saw no indication of anybody wanting any money." "Oh, well," said he, "if you don't understand it, let it drop. The old man will want to see you."

Q. Who was "the old man"?—A. Mr. Brady. A few weeks after that Mr. Brady sent me word that he would like to see me. I went to see him. Said he, "What are you going to do about that, Walsh?" "About what?" said I. Said he, "What Andrews spoke to you about." I tried to turn it off jocularly, though it was quite a serious thing to me, and I said laughingly, "Really, Andrews was not in earnest, was he?" "You do not think so?" said Brady. Said I, "How could he be? Eight thousand dollars! Egad, I haven't anything to pay \$8,000 for. I am trying to get out." "Well," said Brady, "that's all right."

It was not long after that that an order was issued on my route cutting off one trip. I thought I understood that. It reduced the pay about \$19,000 or \$20,000 a year. The next order that came was one transferring the terminus from Santa Fé to Albuquerque, changing the terminus arbitrarily, and saying that thereby the distance was reduced 80 miles. I went up to the Department and said, "Gentlemen, the distance is not reduced 80 miles. The records will show that when the terminus was transferred from Albuquerque to Santa Fé the distance was thereby increased 35 miles, and it seems very clear that the same measure of distance ought to work when the terminus is transferred back from Santa Fé to Albuquerque." "Oh, no;" they said, "that was a great wrong to the Government when it was held that the distance was only 35 miles, and now they were going to right all those wrongs, and the distance was 80 miles." That change threw my whole line into the utmost disorder. The time was very fast and the men could not make it, and reports began to come in from the different offices, "This mail is behind six hours;" "This mail is behind nine hours;" "This mail is behind twelve hours." I was notified of that, and I said, "Of course the mail is behind, when you hold the distance to be decreased is 80 miles when in fact it is decreased only 35 miles." They said, "Well, you go to work and establish that fact, Mr. Walsh." I said, "I will establish it, and establish it by the records of the Department. I will establish it by the records when Barlow & Sanderson had that same route." They said, no, no; that the world was progressing and distances had changed, and I must not attempt to lean upon that record; I must proceed to prove and establish my case. Well, after three or four months I did succeed in getting them to admit that the distance was decreased only 50 miles, instead of 80, but I never could get them to allow the other 15.

Matters assumed a serious aspect. In the mean time I had had transactions with General Brady in reference to money that I had loaned him, discounting his notes, some of which he had paid. In the matter of these Price drafts for \$20,000, one-half was placed to his credit.

I suppose you want me to make no reference to the other gentleman who got the other half?

By Mr. VAN ALSTYNE:

Q. You regard yourself as estopped from stating that by the injunction put upon you by the committee?—A. Yes, sir; I do not want to evade the ruling of the committee at all. In fact, I have not brought a Kellogg paper with me here, lest I should be tempted; but I have no desire to go into that matter at all unless you wish me to testify about it and bring the papers; if you do, of course I will take pleasure in doing so.

As I have said, I felt that things were getting into a serious aspect and culminating. Mr. Hinds was annoying me for money. I told him I was being absolutely wrecked. I said to him, "I cannot pay you any money; I am losing money, and you know it." "Well," said he, "Walsh, be frank with me. Tell me whether all there is for you to get your money out of is this route." I replied, "That is all, Hinds." Said he, "There is nothing else between you and Brady?" I said, "I give you my word of honor that there is not." Said he, "Have you no temporary service in somebody else's name? Isn't Brady making up these losses to you some other way?" Said I, "I give you my word of honor that he is not." "Well, then," said Hinds, "you are being treated harshly; you are being unjustly dealt with, persecuted, and I shall go to war again." So he began to sharpen his battle-ax again, and he went out into the field, with great results, I assure you. These fellows here trembled in their boots when Hinds went upon the war-path. This was about December, 1880. Some time before that he had begun to show impatience. He came to me for money, and I said to him, "Every dollar that you get out of me is absolutely thrown away by me, and nothing but your wants would induce me to let you have any money." "Well," said he, "I will go up and see Brady. I will beard the lion in his den." So he went up to the den, which was near Farragut Square, and they had quite a time there, as it was described to me by Hinds. Brady was going to put him out, and Hinds said he would like to see him do it, and some pleasant little amenities passed between them, and Hinds came away and said that war was declared. I said, "All right; go ahead; I will look on." The war was commenced in a quiet way. The newspaper men began to take an interest in the matter again. However, there was a strong disposition to suppress it. Mr. Brady about that time thought he would like to borrow some more money from me. I thought it was a good time for me to quit. He wanted \$23,000 or \$24,000, and he was kind enough to offer his note. I will show you his letter making the request. This was some time in December, 1880. I told him that really it was not convenient for me to let him have the money; that I was quite embarrassed. I did not want to tell him plainly that I did not wish to lend it or that I distrusted him, but I told him that things were a little close with me. I have his letter here, the one of which the Herald printed a fac-simile, and which was presented also to the grand jury, though those gentlemen seem to have forgotten it—they forget lots of things. It is the one that is known as "the ginger letter." You see [producing it] that it is pretty well worn. We tried to get it in evidence once or twice, but somehow or other the fates were against us. I will read it:

MY DEAR WALSH: The Chattanooga people send for me to be in New York tomorrow. We propose to make an effort to put it up this week. I am in need of ginger. Can't you loan me your Chattanooga, for which I will give you my obligation for what you paid for it, and also account to you for any profits made. [Humanitarian, you see.] With that I can raise what I need to help me in the movement. The

trouble with me is this: My means are in American Union Telegraph, and the bonds and stock are not yet issued. When issued, will give me \$120,000 or \$130,000, but this may not be for sixty or ninety days, and hence not available. My telephone bonds are already up as collateral, and, with buying newspapers and mines (rather part of one, Pelican and Dives), mining, the lumber business, &c., I am a little cramped. Help me if you can. It will be helping yourself if we succeed, of which I have no doubt.

Q. What is the date of that letter?—A. It has no date.

Q. Do you know when it was written?—A. I can approximate it. On December 11, 1880, I gave my check to Winslow, Lanier & Co., in New York, in favor of Hatch & Foote, for \$24,700.50, in payment for 300 shares of Chattanooga stock. I happened to be in the office of Hatch & Foote one day, having called there to see Mr. Brady, and looking at the "ticker" I noticed that Chattanooga manifested a little life, and inasmuch as some of the "lambs" had some money, and would be apt to put it up a point or two, I thought I would buy a few shares—not on a margin. I do not like to buy on a margin, because the chances are that if the market does not go down upon you the broker will fail. I said, "I have \$25,000 or \$30,000 in bank, and I will buy 300 shares," and I gave the order. Brady heard me giving the order. I said, "Make the order cash," and when the clerk came in and reported the purchase, I sat down and wrote my check. Brady remarked, "You are solid; you are an investor." I said, "Yes; this is for permanent investment." The young man came back and gave me the stock, and I put it in my pocket and went off. You see, therefore, that Mr. Brady knew that I had the stock, and that is the stock he refers to and wants to borrow in this letter I have just read. The letter was written perhaps a week or ten days after I had bought the stock—this letter in which he expresses a desire to borrow it. I called to see him, and explained that it was really difficult for me to lend anything at that time; that I was rather inclined to be a borrower wherever I could succeed in effecting a loan. [Laughter.] He evidently did not like my talk. Mr. Brady's manner is not particularly pleasing at best, and when he is dissatisfied he is positively morose. "Well," said he, "that stock will go to the deuce if I do not come to the rescue." I said to myself, "Then I shall not make the one or two points that I expected to make." However, I did make one or two points on that stock, after keeping it five or six months.

About the end of December I thought it would be well to have a settlement with Mr. Brady. This attempt of his to get more money out of me I did not like very well, and I thought it would be well to have a settlement, and I made an appointment to meet him at the house of General George A. Sheridan, on E street. It was in Sheridan's name, but, in point of fact, it was Brady's house. I sent a note to him at the Post-Office Department, and he responded. My note was as follows:

DECEMBER 28.

GENERAL: A fire will be made in Sheridan's office at 1 p. m. I wish you would meet me there at that time, or at any time you find convenient.

Yours,

WALSH.

Answer by bearer.

On the reverse side he wrote, "Will be there at 12.30." He came—I might finish the quotation, but I won't. He came and captured the property. It was "abandoned property" in his opinion. He took the notes, and said it was a settlement, that that was an end of the business, and that I certainly never could have assumed for a moment that he was doing these things, increasing service and so on, for any particular

amusement. I said, "Well, general, I did not know that you were doing it for amusement, but I thought you were doing it in accordance with the law. I presented petitions for the increase that you gave me." Said he, "Walsh, it is silly to talk about petitions. You have seen enough to know that petitions do not operate unless the fates are propitious. You have sent in a good many petitions to get your service put back to seven times a week. Have you succeeded?" I said, "No, I have not." "Well," said he, "there is an illustration for you that petitions are sometimes ineffective. Now," said he, "for you to assume that I owe you any money is absurd. You never at heart could have believed anything of the kind. You have seen enough to know better than that." I said, "Wherein have I had an opportunity to know better, general?" "Well," said he, "you collected the Price drafts, amounting to \$20,000, and you credited me with \$10,000 of that. What did you think it meant?" I said, "I never stopped to inquire. It is not part of my business to inquire into other people's business." "Oh, well," said he, "if you didn't understand that you didn't exercise your faculties." "Well," said I, "probably I don't exercise them sufficiently." Said he, "There was the Price draft, \$25,000, on the Indianola and Corpus Christi route. Then, too, you affected not to believe that your share of that Congressional assessment was \$8,000. Mr. Price did not assume that; Mr. Price paid it." "Well," said I, "general, just favor me with an account. Let us see how we stand. Perhaps I owe you some money." He said that if he figured it down closely he did not doubt that I did. He said, "You found this contract at \$74,500 a year." "No," said I, "I found the contract at \$18,000 a year." Said he, "Oh, no; McDonough and that crowd had the pay increased to \$74,000 per annum. Now, that was paid for." "Yes," said I, "I am painfully aware that it was paid for. It was my money that paid for it. Now, I understand that my money went to Brown." "Yes," said Mr. Brady, "it went to Brown." In the mean time Brown had borrowed a thousand dollars of me in addition to the \$8,000 of drafts that McDonough had given him to secure the balance of his \$16,000. He never paid that thousand dollars. I sued him and recovered a judgment, but it was returned *nulla bona*, and it still stands in that way. "Now," said Mr. Brady, "the difference between \$74,000 and \$135,000 is, in round numbers, \$60,000." "Undoubtedly," said I. Said he, "\$60,000 per annum for three years, at the rate of 20 per cent. per annum is \$36,000, Mr. Walsh, ain't it?" "Undoubtedly," said I. "Your share of the Congressional fund, \$8,000, which you seem to forget that you owe, added to \$36,000, will make \$44,000, won't it?" I said, "Yes, sir." "Now," said he, "I remitted fines in your case amounting to about \$6,000." "Well," said I, "those fines were unjustly imposed." Said he, "That's all right; that's all right about the unjust part; I remitted them, didn't I?" I said, "Yes." "Very well," said he, "50 per cent. of those amounts to so much, \$3,000." Said I, "General, that is a very comprehensive statement, and it is quite evident that I owe you some money, but do you really think you are going to settle it that way?" Said he, "What other way will you settle it?" "Well," said I, "up here I will settle it in court, but if we lived South, perhaps I might adopt some other remedy." "Well," said he, "you can go to the courts if you want to, but it won't do you any good." "Perhaps it won't," said I, "but I tell you that it will really cost you a good deal of money before you get through." "Oh," said he, "that's all right, Walsh; do your best." "Now," said I, "general, can't you help me out of this? You *can* do it." Let some of your mail contractors buy me out. They can make money out of the contract. You have told me that I did not un-

derstand the business, and I admit that. I admit further that I don't want to understand it. Now, if you will just drop a word to some of those faithful adherents of yours to buy me out, I am willing to get out; I will get out and lose money and call it square." Said he, "That's all right; come round to-morrow." I went around the next day. I did not find him particularly talkative. But a day or two afterwards I received a note as follows:

OFFICE OF THE SIXTH AUDITOR OF THE TREASURY.

MR. WALSH: Will you please call at my room at once, and oblige,

F. B. LILLEY,
Deputy Auditor.

DECEMBER 30, 1881.

I called. Mr. Lilley told me that his father ("Judge" Lilley, the late lamented) wanted to see me; that he had some business with me which would, no doubt, be to my advantage. I said, "Yes, I will call. I would like to see him." In the mean time I went back to my house. All this time I was doing business at 916 F street. I received also the following note:

DEAR SIR: I am to have a final engagement with Jerome J. Hinds at 2 p. m. this day. Would like to see you for a few moments before I go.

Respectfully,

W. LILLEY.

"Well," said I, "what the deuce does he want to see Hinds about for me? I think I have seen Hinds often enough. I don't understand it." At this time I did not know "Judge" Lilley from any other man. I went again up to the Post-Office Department, and I found Mr. Lilley in the hall talking to somebody, and the son came out and introduced me to the father. Old Lilley took me aside, in the most confidential way, into the ante-room of the Sixth Auditor's Office, and said, "I have been up to see Hinds on your part." "Indeed," said I; "who told you to go to him on my part?" "I went up there," said he; "Brady told me to go up there to see Hinds." "On my part?" said I. "Yes," said he, "on your part." Said I, "I am very much obliged to you, but really I am competent to attend to my own affairs. What did you go to see Hinds about on my part?" "Well," said he, "I went up to see what it would take to get that fellow to stop his yawping"—I remember the term very well; "we wanted to stop his yawping, and we thought we would buy you out." "Buy me out?" said I. "Yes," said he, "if you want to sell." "Well," said I, "I do want to sell; there is no question about that." Said he, "I offered Hinds \$5,000 if he would stop." "Who is going to pay Hinds?" said I. Said he, "Whoever buys the route." Hinds said afterwards that his wife was present when Lilley came there in company with George F. Brott, who is a very good fellow, too. "Well," said I, "what are you going to give me?" Said he, "I will give \$25,000." Said I, "\$25,000! My stock cost me about \$35,000, and it has not deteriorated any; on the contrary, it is better than when it went out there. I bought my mules in Saint Louis, and they are fine animals, the best that ever went into the Territories, and you fellows ought not to act that way with me. The route stands me \$75,000 or \$80,000, and it is not abandoned property, and you gentlemen are not going to loot it." "Well," says Mr. Lilley, "there is no disposition to buy the contract at all; nobody wants it." "That is always the case," said I, "when property is for sale." "But," said Lilley, "we want to quiet Hinds; you have got

into a great deal of trouble, and you are going to lose all the money you have in this contract; there is going to be a great deal of trouble, and you must expect to lose something." I said, "Yes; I will lose very cheerfully \$25,000 or \$30,000 and consider that I have made some money if I can get out that way. That brings it back to where I started from. I will take \$50,000." "You can't get it," said he. "Very well," said I, "you can't have the contract." Said he, "I guess you will sell out a good deal cheaper." "All right," said I; and we parted. The next gentleman that came after me was Mr. Brott. Hinds kept informing me of the efforts that they were making in his behalf. He did not want to trust them; he wanted money; but to the extent of Mr. Hinds' ability he wanted to aid me. Mr. Brott is a gentleman that I have known for a good many years; I knew him in New Orleans; he came to see me and treated the matter very fairly. He felt disposed to give me the \$50,000, and I felt that I was pretty nearly on the eve of getting it. Hinds told me that he thought I would get it; but suddenly there was an interruption. I went up and saw Mr. Brady and talked with him about it. He was inclined to be reticent, but he told me again he thought I had better sell. I said, "I have no doubt of that, but they want to capture it." "Well," said he, "Walsh, you must use your own judgment about it." "All right," said I. I told Brott that I would not take any less than \$50,000. I have since learned—that is, Mr. Woodward has learned and has communicated the fact to me—that Brott said that they were ready to pay me the \$50,000, and would have paid it, but that he went to Brady, or Lilley went to Brady, and told him of it, and Brady said, "You let him severely alone; don't you go near him; don't ask him any more about his contract; he has been offered enough, and if he don't take it he will wind up by taking nothing." I did not know at the time what was going on. About that time I had come to the conclusion that I could not make any money in Washington, and that perhaps I had better take my chances among the wolves in New York; so I went over there and paid little or no attention to this business, but still went on performing the service as best I could. Brady recommenced his orders against me. I asked permission to sublet the route. That provoked an inquiry on his part as to whom I wanted to sublet to. He evidently wanted to know whether I was going to give it to some of the fraternity. I did not intend to do anything of the kind, and I told him that I proposed to sublet to a gentleman named Leeds. I knew that they did not know Leeds; he was a clerk in a hotel at the time. Then Hinds went to work very assiduously for Brady's scalp. He went to the district attorney here, Mr. Corkhill; he went to the Postmaster-General; he went to the Attorney-General, at that time Mr. Devens. He offered to produce proof of the grossest fraud, especially in the case of the Las Vegas and Albuquerque route, which was under contract to J. B. Price. However, he could get no satisfaction. He employed counsel, Mr. Charles MacLean, of New York. Mr. MacLean, in his turn, went about to each one of those people, but nothing could be done; they could not get anybody to take any notice of it whatever. In the mean time I thought I would try to make Brady feel badly, and I said to him, "It is my opinion that you will be indicted." Said he, "What makes you think so?" "Well," said I, "I think so, judging by what I see in the press and by what Hinds says he is doing." "Oh," said Brady, "that is all right. Don't you concern yourself about me, Walsh. I have a corner on that grand jury." Said I, "All right; you have a corner on the grand jury?" Said he, "I assure you there is no danger. Do not be alarmed about me." He knew

I was not alarmed about his being indicted; but, on the contrary, would be rather glad of it. I went on performing the service just as well as any other like service was performed, but Mr. Brady affected to believe that it was not properly performed. Hinds published a statement in the New York Times charging fraud on this Alberquerque and Las Vegas route, and citing as witnesses who were cognizant of the fraud, that is to say, of the non-performance of the service, Stephen B. Elkins, R. C. Kerens, I think Stephen W. Dorsey, and myself. I was never omitted, and have not been for some three years. Brady sent Mr. R. P. Eaton to New York to see me. Mr. Eaton asked me if I had seen this libelous attack of Hinds. I told him I had read it. Said he, "Walsh, you know there is no fraud there." I said, "I don't know anything about it. I don't know how Hinds came to mention me. I don't know anything about that." "Well," said Eaton, "you know that what he says is wrong." I said, "No, I do not know that, and do not press me, or I might be inclined to give an opinion." "Well," said he, "don't give an opinion; but Mr. Brady will be glad to receive a letter from you." "What about?" said I. Said he, "Denying that statement, saying that what Hinds says is not true." Said I, "I won't do anything of the kind." I said further to Mr. Eaton, "It is not clear to me what you want me to do; let Mr. Brady write me a letter and state what he wants." I wanted to get the letter, but Brady seemed to understand that it was not a good letter-writing time. Again Eaton came to me and said, "They are getting ready for publication in the National Republican, and everybody but you, Walsh, has written in refutation of Hinds." "Well," said I, "I won't write any refutation of Hinds; I know nothing about it." "All right, Walsh," said he; "I am only obeying orders." He was very pleasant about it. I said, "Very well; I will not write." The next thing was another order revoking the permission to sublet, holding me so that I could not get out by subletting to any person. All these orders are of record. The next thing Brady did was to say that the service was not being performed. I have read Mr. Woodward's testimony, in which he differs from me as to the action that was taken about my contract at that time. I think they annulled my contract. That ended that phase of the matter; that was the culminating order.

Q. Brady declared you a failing contractor?—A. My impression is that he did. Of course they have a lot of technical terms in relation to this business which I perhaps never got quite through me. I see that Mr. Woodward says that I was not declared a failing contractor, but in point of fact that is what it amounted to. Then came the inauguration of President Garfield. When Mr. James came in power as Postmaster-General, I of course felt that the end of my business with the Post-Office Department was rather painful, but I decided that I would waste no more time upon it. My family were staying here at the time—they are now in Europe. I came over from New York every Saturday night to spend Sunday with them, and sometimes staid here a day or two in the week. On one occasion Mr. Woodward called on me. He introduced himself as a post-office inspector, and commenced talking about this route, 40101. He said that the Department was in possession of facts tending to show that the greatest injustice had been done me, that a conspiracy had existed to drag me down, and that the case made a bad showing for the Government. At this time Brady had gone out. Well, I was rather reticent with Mr. Woodward; I had not noticed any wild desire on the part of the Government to do me justice, and I was not disposed to say much. Woodward said, "Mr. Walsh, the Postmaster-General would like to see you." I said, "I do not know Mr. James."

"Well," said he, "call up there." I called. Mr. James talked not much to the point; he talked generally, and said he believed I had been treated unfairly. I said, "Yes, sir; I think I have been treated very unfairly, but I suppose there is no remedy." He said, "I don't know about that; in a case like this there ought to be a remedy." I thought that was most remarkable. I said, "What shape will it take?" "Well," said he, "the remedy will take such a shape as the gentlemen charged with this inquiry determine." I said, "I am much obliged to you," and the interview closed. Not long afterwards they rescinded the orders of Brady and "discontinued" the service. That term "discontinued" seems to be a very important one in the Post-Office Department. By "discontinuing" a contract the contractor stands in good repute and is accorded all that the law allows him, and the result was that I was told that a sum of about \$15,000 was due me and would be paid. There were fines and remissions that could not be paid at that stage. I said, "I am very much obliged to you gentlemen." I was expecting them to say, "Well, Walsh, what do you know? what are you going to testify to?" or something like that, but there was no reference made to anything of that kind. I was treated with the utmost courtesy by Mr. Woodward all through this difficulty, and by Mr. James, too, so far as I came in contact with him, but that was very little; I don't think I ever spoke to him but twice. An order was made to pay me about \$14,000 or \$15,000.

Q. What was the foundation for that payment?—A. The certificates of the postmasters along the route showing that the service had been performed during the quarter ending March, 1881, for which I had not been paid and the pay for which Brady's orders had stopped. They went to the records and the records disclosed the fact that I was entitled to so much money on the face of the papers. As I have said, the amount was about \$15,000, and I was paid that. There then remained the fines and penalties that had been imposed by Brady, amounting, I think, to something like \$9,500. The process at the Post-Office Department in relation to the remission of fines and penalties is this: an affidavit has to be made setting forth the causes of the various deductions in the service. This affidavit is based upon information received from whoever happens to be particularly in charge of the route. On that information I made an affidavit relative to the conditions that had precluded the possibility of my performing the service as promptly as it should have been performed. The affidavit was made and filed and there was no answer to it. A few days later Mr. Woodward, talking to me in relation to the matter, said that he did not think that affidavit was calculated to cover all the ground. Said he, "Now, Walsh, you have spoken to me quite fully in relation to the conspiracy against you. On my side I know what has been done very much more thoroughly than you know it, and I think it would be just as well for you to set forth the facts and make a case that will present itself to the equity of these gentlemen's minds and rest it there." I said, "That will be assuming that the Government, through its agent, has done me wrong. Of course I am painfully aware of the fact, and I have no hesitation in making the affidavit and reciting the facts of the case." Mr. Woodward said, "Do that." I did make the affidavit, reciting substantially what I have stated before you gentlemen now in relation to this conspiracy. I merely touched upon Mr. Brady's desire to have me pay the \$8,000 and what ensued after my refusal—one step after another until I was annihilated. On the basis of this affidavit the Department remitted the fines and deductions.

Q. Then you were allowed \$15,000 for back pay and \$9,500 for fines

and penalties?—A. Yes, sir; that left me in the condition of a contractor in good standing, and consequently entitled to all the privileges that such a contractor enjoys. They asked me for a waiver, which I made as I understood it, but I never meant to waive my right to the extra month's pay. I think I was, perhaps, intelligent enough not to do a thing of that kind.

Q. A contractor whose contract is discontinued is entitled to a month's extra pay for services not performed?—A. Yes; he is given that as a sort of indemnity. The Government reserves the right to annul the contract at any time by allowing the contractor this extra month's pay. I made this waiver June 10, 1881:

R. A. ELMER, Esq.

DEAR SIR: I hereby waive claim to pay for service performed on route 40101 after March 24, 1881.

JOHN A. WALSH.

That, you see, is not a waiver of the extra month's pay, and it never was so intended by me. It refers to the service performed during the quarter ending in March, 1881. There was a difference in post-office registers. One postmaster's register on the route would show that service was performed later than the 24th—up to the 26th or 27th. Thus it became necessary to fix upon some basis for the payment, and I said, "Pay me up to March 24th." They said, "Well, make a waiver to that effect"; so I made this waiver. I afterwards demanded the extra month's pay, but it was refused me by Second Assistant Postmaster-General Elmer.

Q. Have you ever received that extra month's pay?—A. No, sir.

Q. State what you have done to secure it.—A. I asked the Second Assistant, Mr. Elmer, to pay me, and he refused. I made the request in a letter, in which I set forth what I conceived to be my rights in the matter. Mr. Elmer declined to pay me. About that time Mr. Bliss came into the cases—somewhat later on towards the fall of 1881. I had nothing to say to Mr. Bliss; I did not know him. I was, as I have stated, in New York, my family having gone to Europe. Mr. Gibson had spoken to me at different times in relation to this business. In the mean time I had filed a suit against Mr. Brady, long prior to any action by the Government. Mr. Gibson spoke to me about it generally, and wanted to know how I expected to prove my case, and in the course of various conversations I told him what I conceived to be the case, dwelling particularly upon the strong points of it. It appears that Mr. Gibson had formulated all these conversations in writing, and had given the statement to Mr. Bliss. I came over here on one occasion, and after talking to Gibson some little time, I asked him how he was getting along—he was then employed by the Government. He said, "Fairly," and I thought there was a little embarrassment about his manner, but finally he said to me, "Walsh, I did something that I don't know whether I should have done or not, but I have done it, and I want to tell you about it, to see what you think of it. I have reduced to writing the various conversations had with you about this business, and I have given the statement to Mr. Bliss. Now, Bliss is a very incredulous man, and I think he is inclined not to put much confidence in anybody or in anything, and I have reached that stage where, if you can do it, I would like you to see Bliss and tell him that that statement contains about what you have said." I said, "Well, Gibson, I really don't like to do it; it is no affair of mine; I am getting mixed up in a way that I don't like, but if it will relieve you of any embarrassment I will

do it." He said, "I will introduce you to Bliss." He did introduce me, and I talked to Mr. Bliss. He read the statement over and we made corrections, and I said, "That is about it substantially." He then asked me, "Have you any objection to signing it?" I said, "Yes; I do not sign anything, Mr. Bliss; I am not making affidavits; I am not in that business. Mr. Gibson told me what he had done with the information I had given him, and to help him I have gone so far, but that is as far as I care to go." The conversation with Mr. Bliss was very pleasant, and we parted. I told Gibson what I had done. Mr. Gibson and Mr. Cook on one side, and Mr. Bliss on the other, very soon got into a row. There was great division of sentiment in the family, and Bliss seemed to rule the roost, and showed a strong desire to take their scalps, and the fight degenerated into a regular Kilkenny one; Gibson and Cook sustaining the theory that route 40101 should have been the case selected first, and Bliss holding that it should not—that he was the boss of the business, and that the proper case was the Brady-Dorsey one. Now, I had no more to do with all that than you gentlemen here, but Mr. Bliss evidently conceived the idea that I had all to do with it, or rather that I had taken sides in the fight.

Q. Who were the parties to be indicted in the case of route 40101, from Prescott to Santa Fé?—A. The same persons that they had filed the information against: Brady, S. P. Brown, French, Turner—the parties in the information. The record will show.

By Mr. STEWART:

Q. If they had taken up the case of the route on which you had the contract, that would have covered only Brady.—A. I guess it would have done more than that. I did not care whom they prosecuted. It was a matter of utter indifference to me. But Mr. Bliss seemed to think that I sided with Cook and Gibson. I doubt whether I knew Mr. Cook at the time, and with Mr. Gibson my acquaintance was most casual. I had no feeling whatever in the matter; it was a matter of utter indifference to me. Mr. Bliss began at once his attempts to discredit me. Whether that resulted from his surroundings here, growing out of his purchase of an interest in the National Republican, the administration organ—whether those surroundings influenced him to my prejudice, I cannot say, but he unquestionably conceived very early a prejudice against me, and went into print in his efforts to discredit me. I had had one interview with him, and he knew my status with the Post-Office Department; that is to say, he knew what the Government had felt impelled to do as a matter of justice to me, and, from my standpoint, I cannot understand why he should have conceived this prejudice against me, but he undoubtedly did, and he first gave expression to it in print in an interview which appeared in the Cincinnati Commercial of February 19, 1882. He was speaking of the number of witnesses in the Dorsey-Brady case, and this is an extract from the interview:

Col. George Bliss said to your correspondent to-night: "I think I can safely say that you will see Brady, Dorsey, and eight or ten other members of the star-route ring indicted by the grand jury before the 4th of March. I am more confident that they will be indicted than I am that the bondsmen, whom Judge Snell, of the police court, has held for the action of the grand jury, will be. * * * In all, some sixty [witnesses], from every quarter of the country, have been gathered here and introduced in the grand-jury room; that is the advantage we have in this general case, which I call the Dorsey-Brady case, arising out of the frauds perpetrated in connection with the Dorsey combination of star-routes over the Prescott and Santa Fé cases, which we tried to bring before the criminal court on information. The weak point in that case, pre-eminently, was that it hinged almost entirely on his *evidence of a single witness, who* made the revelation out of revenge. The trouble in such a case is that between two days,

the revengeful witness, whose evidence is all important, may be appeased, and may forget all that he knew of the evil deeds of his late enemies and present friends. This places the prosecuting officer in a hole. That was the trouble in that Omaha case. It all depended on the evidence of a single man. The man refused to criminate himself when the time came for the disclosures which were to damn the rascals. That is a mistake I shan't make.

This clipping was sent to me, I suppose, by somebody who was anxious to have me irritated against Mr. Bliss, or probably it was sent in justice to me, and, of course, I was very glad to receive it. I never said anything to Mr. Bliss about it, but I thought I was treated very badly by him as a gentleman representing the United States, and I thought to myself he commences the operation of discrediting me very early, and I suppose he is moved to think that way of me because of his surroundings and his pending negotiations for the purchase of the National Republican. I sometimes saw Mr. Bliss about that time. I met him once on F street, near Ninth, and he said to me, "Walsh, I have taken up the Dorsey-Brady case. It is a better case." He made that remark without any introduction of the subject, without its being led up to in any way. I nodded my head. I did not see why he should say that to me. This meeting was after he had had this interview from which I have read an extract. Said he, "It is a better case, and there are more witnesses." I said, "Well, sir?" "But," he continued, "I think I will take that route 40101, and I will want you to go before the grand jury." I said, "All right, Mr. Bliss; I am not volunteering, but I will obey a summons." "Well," said he, "I will do that." I made some further remark and went off. A few days afterward I wrote this letter:

NEW YORK, *March 13, 1882.*

MY DEAR SIR: Last Friday, I think it was, after leaving you, I met Mr. George Bliss. He had a few moments' conversation with me, during which he took occasion to say that it was likely he would take up No. 40101, in which event he would want to see me, &c. Of course I replied that I was willing at any time to lend him all the aid in my power, &c.; but I think I neglected to give him my address, an oversight which I trust you will remedy by giving him my address (care of Ira Shafer, esq., attorney at law, New York). By the way, I wish you would try and find out where Price is. [I was trying to get Price's deposition *de bene esse* in my case against Brady.] You can do so by telegraphing the postmaster at Jefferson City, or some special agent in Saint Louis. You will greatly oblige me by so doing, and informing me of result.

Respectfully,

J. A. WALSH.

P. H. WOODWARD, Esq.,
*Inspector Post-Office Department,
Washington, D. C.*

To this Mr. Woodward replied as follows:

WASHINGTON, *March 18, 1882.*

MY DEAR SIR: Your favors of the 13th and 17th received. In compliance with your request I have put agencies at work to find out the whereabouts of Price. It may take some time to locate him, but I will inform you as soon as I learn.

It is the purpose of the Government to present 40101 with the other cases, soon.

Yours, very truly,

WOODWARD.

J. A. WALSH, Esq.

On the 21st of March I again wrote to Mr. Woodward:

NEW YORK, *March 21, 1882.*

MY DEAR SIR: Until the Government, in some way, compels the presence of Price in Washington, I despair of reaching him with legal process. Every effort of mine to compel his presence as a witness has failed, and I confess that he has not only tired me out physically, but financially as well, for, as you can readily understand, my futile efforts to get his testimony have cost me money.

Mr. George Bliss told me some days ago that he was going to take up 40101, and I note that you express the same opinion in your favor. Well, I say to you as I said to him, just let me know when I can, in any way, be of any service to the Government, and I will respond with that pleasure and alacrity which every good citizen should manifest in the interests of justice and good government.

Yours truly,

J. A. WALSH.

P. H. WOODWARD, Esq.,
Post Office Inspector, Washington, D. C.

The WITNESS. Would the committee care to have Mr. Woodward's opinions in relation to the conspiracy that existed against me?

The CHAIRMAN. I think Mr. Woodward testified in relation to that.

The WITNESS. Not so fully as he treats of it in his letters to me.

The CHAIRMAN. The substance of those letters is that the Government desired to procure your testimony in the cases.

The WITNESS. Yes; but you will see how Mr. Woodward's statements conflict with the testimony of Mr. Bliss in relation to me, when I come to take up Mr. Bliss's testimony given here, which I hope the committee will permit me to do.

The following are the letters:

POST-OFFICE DEPARTMENT,
Washington, D. C., January 12, 1882.

MY DEAR SIR: Since seeing you I have been working diligently on the service in New Mexico; though not upon route No. 40101. I thought last spring that there had been a conspiracy in the contract office to force you out of that route. I have since obtained fresh evidence on the same point. When you find it convenient to come over I will devote myself to this service in New Mexico with you.

Very truly,

WOODWARD.

JOHN A. WALSH, Esq.,
208 East Eighteenth Street, New York City.

POST-OFFICE DEPARTMENT,
Washington, D. C., March 23, 1882.

MY DEAR SIR: Yours of the 21st at hand. While I have not heard the matter discussed I presume the remaining Government cases will be put before the grand jury as soon as legal questions raised with regard to indictments already found are settled. When the proper time comes Price will take his choice between putting in his appearance and quitting the country. If he does not come he will be brought. The facts ought to make quick work of him.

Yours truly,

WOODWARD.

JOHN A. WALSH, Esq.,
Room 51, No. 18 Wall street.

Confidential.]

POST-OFFICE DEPARTMENT,
Washington, D. C., July 6, 1882.

MY DEAR SIR: Government counsel decided to-day to have the new grand jury convened next Monday. The judge will issue the order. Mr. Merrick desires to have you come over at your earliest convenience. Come to the Hamilton. I think you will be entirely satisfied with the situation. I spent Sunday and the Fourth at the country place of Mr. Merrick. He is a host. When you and he plant your shoulders together the load will move. I, too, want to see you and be cheered by your presence.

Sincerely,

WOODWARD.

JOHN A. WALSH, Esq.,
Room 51, 18 Wall street.

Personal and confidential.]

POST-OFFICE DEPARTMENT,
Washington, D. C., December 7, 1882.

MY DEAR WALSH: I returned Monday night, having been absent, with the exception of occasional visits to the city, since the close of the trial. During the interval a great change has taken place in the general atmosphere and situation. A few

months ago many believed that the Administration was half-hearted in the prosecution, and that impression was reflected painfully in the Departments. Adherents of the criminals were insolent and shameless in expressions of hostility and defiance. Now, around here there is no more swagger, no more apologies for thieves.

I can see that your appearance on the scene of action a few months ago, and the very decided stand taken by you as to the line that should be pursued by the Government, has had a very decided influence in bringing about the change. Mr. Merrick at once recognized the solidity of your views, and has been unwearied in effort to make the prosecution thorough and impartial. Mr. Bliss is co-operating vigorously with him. If there ever was any hesitancy on political grounds, any reluctance to let the blow fall upon an offender because he filled a high place, it has all disappeared.

In these steps forward, manifest to every eye, I recognize the potency of your influence. Do not know how much I may be in Washington, but while here hope I shall be more or less cheered by your presence.

Yours truly,

JOHN A. WALSH Esq.

WOODWARD.

POST-OFFICE DEPARTMENT,
Washington, D. C., December 14, 1882.

MY DEAR SIR: Mr. Merrick wishes me to write you that a man whom you desire greatly to see will be ready to go before the grand jury on Monday, and that he will corroborate you in every particular. He wishes to consult with you at your earliest convenience. Please come over at once. Mr. Merrick has been unwearied in efforts to accomplish what you both think ought to be done.

Yours sincerely,

P. H. WOODWARD.

N A. WALSH, Esq.,
Care E. H. Grandin, esq., No. 18 Wall street.

Here is an account that was rendered me by Mr. S. P. Brown in relation to this route 40101:

Mr. J. A. Walsh to S. P. Brown, Dr.

1879.

Oct. 1. To balance due on McDonough contract, assumed by J. A. Walsh,	
after deducting amount of Forney's interest.....	\$5,334
“ “ To commissions on increase on Walsh's contract in excess of McDonough's—	

You see how Mr. Brown's account agrees with Mr. Brady's theory, as set forth in his interview with me in December, 1880, when he said that I owed for all the increase that was awarded me above McDonough's contract.

Mr. STEWART. What did he mean by your owing for it?

The WITNESS. That I should submit to his arithmetical process of 20 per cent. per annum. Don't you see?

Mr. STEWART. I do not exactly see.

The WITNESS. Twenty per cent. per annum on the difference between \$74,000 and \$134,000.

Mr. STEWART. That was his price for allowing the increase?

The WITNESS. Yes. This account goes on:

To commissions on increase on Walsh's contract in excess of McDonough's,	
\$—, at 5 per cent.....	\$1,733 75
Oct. 1. To commissions on \$135,975 from Oct. 1, 1880, to October 1, 1881, one	
year, at 2½ per cent	3,300
Do. from Oct. 1, 1881, to July 1, 1882, nine months	2,540 58
Total	14,356 65

CR.

July 2, by cash paid.....	1,000
	13,356 65

Received payment.

But there is no "Brown" signed at the end.

The WITNESS. Mr. S. P. Brown rendered me that account, and commenced importuning and annoying me for money, and I began to ask myself, "Where will this end?" and I thought I had better go to Brady himself and settle the matter. I went to him and showed him the account, and said: "General Brady, Mr. Brown is your friend, and he is annoying me very much, and really I do not know what for. He says I owe him this money. I do not know why he assumes that I owe him any money, but he does assume it, and he is growing disagreeable and aggressive, and I wish you would stop it." Brady said, "Well, Walsh, Brown is a man that is very useful, and Congress is in session, and he has a great deal of influence, and it is best that you should be politic with him." "Well," said I, "I cannot be politic to the extent of submitting to be bothered and importuned by Brown. There can be nothing more unpleasant to me, and I do not care whether Congress is in session or out of session, I tell you it must stop. Between Hinds and Brown life is becoming a burden." "Well," said Brady, "I will see about it." Brown never annoyed me any further.

In the mean time, as you see, he credited me with a thousand dollars, which he should not have done, inasmuch as I had loaned that money to him on notes, with collateral in the shape of postal drafts. When he did not pay the money I brought suit against him and recovered judgment; but Brown is judgment-proof. You cannot reach him in that way.

By the CHAIRMAN:

Q. What did Brown say he wanted that money from you for?—A. Well, Brown just said in a general way, "You owe me this money." I asked him, "How do I owe it to you?" "Well," said he, "You owe me that first item because you have assumed the balance that McDonough owed Brady; he owed Brady."

By Mr. STEWART:

Q. How came McDonough to owe Brady? What was it for?—A. For increasing his service. That is what Hinds swore to. His affidavit stated that they had agreed to pay Brady \$16,000 for the increase of that service. He further set forth that \$8,000 in money was paid by checks at different times, which was true. Then they gave Brown \$8,000 in drafts. They wanted to get all the \$16,000 from me, but I told them that that was out of the question; that I could not give them so much money. Hence they compelled Brown to take drafts for the balance, and Brown, when he wanted a loan of \$1,000, came to me with the drafts as security for the money. Well, I let him have it. I thought he would pay a thousand dollars any how, and he did pay it when the note first became due, but he came back a short time afterwards and got another discount, which he never paid. Now, Brown assumed that I owed that money which was represented by the drafts, and that when I fell heir to the contracts of these other parties I consequently fell heir to the debts of the original contractors to him, and he gave me to understand that he represented Brady. That was for my information, so that I would not object to paying his account. Well, I thought the clearest way out of it was to go right to Brady himself, to carry the war into Africa, and I did so; and, as I have stated, it had a happy effect, for I never was importuned by Brown afterwards. From that time out he let me alone, which he certainly had not done up to that time.

Now, we have reached the stage where Mr. Bliss comes into the cases, and I will take up Mr. Bliss.

By the CHAIRMAN:

Q. Have you read his testimony?—A. I have, sir, and I have marked certain passages to which I desire to refer. Mr. Bliss, on page 158, says:

The strength of that case, 40101, as a criminal case, rested absolutely upon the evidence of Walsh.

That is not true. There were other witnesses. Mr. Hinds, for instance, was a witness, who is on record in an affidavit, and I have been informed that Fisher and McDonough were both to be witnesses.

Q. Would not S. P. Brown have been a good witness in that case?—A. He would have been a good defendant—a very good defendant. [Laughter.]

Mr. Bliss goes on to say:

He was represented as being able to testify to payments of money to Brady in connection with procuring the expedition and increase of service, and, with Mr. Walsh's testimony, and with the other record evidence as they stated they had it, it seemed a fairly good case. But I told them very distinctly that, with my experience as a prosecuting officer, I could not help regarding Mr. Walsh as a co-conspirator in the case—

You see, gentlemen, he had already commenced to treat me as a co-conspirator. Now, I submit that the record up to this time, of which he was thoroughly cognizant, did not furnish any justification or excuse for his regarding me in that way. He goes on:

that he might regard himself as a victim, and I presumed he did—

I still venture to regard myself as somewhat of a victim. Mr. Bliss proceeds:

but it seemed to me that on the papers he was a co-conspirator, and I could not but believe he was such, and that I was not willing to go on with that case unless Walsh was brought into it. I claimed at first that he should be made one of the parties to be indicted.

It is unnecessary to say that I knew nothing about that. But now, just listen to the absurdity of Mr. Bliss! He says further:

Subsequently, I think I modified my view and said that I was willing to go ahead provided he was named as a conspirator, though he might not be indicted. It was left to Mr. Gibson to see Walsh and ascertain whether he was willing to be put in that position.

Now, gentlemen, if there was ever anything more ridiculous than that, upon my soul, I would like to hear it! [Laughter.] Mr. Bliss continues:

Mr. Gibson seemed to think he would not be willing, and I was very decided in my opinion, in view of some experiences I had had, that, as the case rested entirely upon Walsh's testimony—

Of course it is not necessary to repeat that it did *not* rest entirely on my testimony. My testimony was rather remote in that case. Hinds was the essential witness and his testimony was on record in an affidavit. Mr. Bliss finishes the sentence as follows:

as I thought, for any possibility of conviction, it would be very unwise to bring the case into the power of a single witness who might at any time slip away.

You see that Mr. Bliss began very early to regard me from the standpoint of his own measure of men. He seemed to think that the best thing to do was to consider me as a bad man, and to arrange that all his own shortcomings should be put upon me, because he undoubtedly thought I would leave the country. Judging from his standard of manhood, I have no doubt that he always figured on that. I am just reach-

ing a point in his testimony where he says that he proposed to me that I should be indicted, and that I pleasantly said, "No, I had rather not." [Laughter.] He says:

After that was all over I said to Mr. Walsh that he ought to know that I had been quite decided in saying that I thought he ought to be included in the indictment; that Mr. Gibson was to have seen him on the subject, and that I understood Mr. Gibson had approached him in relation to it. Mr. Wash said with a good deal of earnestness that Mr. Gibson had never broached the thing to him.

You can imagine, gentlemen, that I might be somewhat earnest about that point. Mr. Bliss says:

Mr. Walsh said with a good deal of earnestness that Mr. Gibson had never broached the thing to him. I told him that after our conversation I was willing to go ahead with that case, based upon his statement as to what he could testify to—that I thought there could be no probable evasion in connection with that statement.

Of course, it is unnecessary to say that I never told Mr. Bliss that I was willing to go in and perjure myself in order to accomplish my own indictment. The statement is really too ridiculous to be made by a man as astute as Mr. Bliss is supposed to be. It is utterly absurd for him to attempt to put me in such a position, for, of course, there was no evidence against me unless I chose to testify against myself and I would have to commit perjury to do that. [Laughter.]

I will not touch on the part of his testimony where he speaks of the aggregations of evidence against Brady, but he says this about the "conspiracy" feature:

But if Mr. Brady increased the service and the speed of the service upon those routes, and allowed a large sum for it, there was in that fact alone no evidence necessarily of guilt on his part—no evidence of conspiracy with anybody.

Mr. Bliss was going to treat me as a conspirator because Brady had increased the service on my single route, yet he says here that that, being an isolated case, would not necessarily involve any crime, yet I was a "conspirator" and a criminal.

By Mr. STEWART:

Q. Do you mean to say that Mr. Bliss says there that the taking of a bribe by the Second Assistant Postmaster-General for expediting service on a route would not be a crime?—A. No, sir; he does not say that. In this part of his testimony he is explaining why he took up the Dorsey-Brady case, rather than the other and he says that increase or expedition, made in an isolated case, would not be evidence of conspiracy, but that where you found a number of cases where Brady issued order after order there you would have evidence of conspiracy.

Then, on page 162, he says about me:

I may say further that I saw things from time to time which led me to fear that if Mr. Walsh got the money which he claimed had been wrongfully taken from him, he would not be for us an available witness; so that we might be in the position of having an indictment procured solely upon that testimony and then find Mr. Walsh dropping out.

You see that Mr. Bliss was always trusting to my being absent. I suppose that from Mr. Bliss's point of view it did not seem possible that a man who was offered his money would decline to take it and refuse to leave the country. Mr. Bliss's notion seems to be that no man has any sense of self-respect, and that no wrong can be inflicted on a man that cannot be remedied by the use of money. He says further, page 163:

I did not then consider it wise to proceed with that Prescott and Santa Fé case, resting, as it did, upon the testimony of a single witness, and I do not now consider that it would have been wise. If there is any responsibility to be taken in connec-

tion with the failure to proceed with that case by indictment, I desire to accept it in the strongest measure, and to say that it was my judgment that it should not be proceeded with at that time, and that I still remain of that judgment and am prepared to defend it anywhere.

You see Mr. Bliss takes the responsibility.

Q. Now, right there, as I understand you, Mr. Bliss not only knew that you had testified to the facts which you have recited here, but he knew that you were confirmed by the testimony of Hinds?—A. Yes, sir.

Q. And, I think you said, of some other witnesses. Who were they?—A. McDonough and Fisher, as I am informed. As to Hinds, I have knowledge myself.

Q. You say that in the statement which Mr. Gibson reduced to writing from your conversations and submitted to Mr. Bliss, and which you confirmed as true, you made reference to Hinds?—A. Oh, yes; just as I have done here.

Q. Then do you understand why Mr. Bliss stated in his testimony before this committee that the case of that Prescott and Santa Fé route rested on your testimony alone?—A. I cannot for the life of me understand it. I am proceeding to show you that Mr. Bliss testified to that which, to put it very mildly, is not true. I think there is no evidence so far as we have got that even tends to show that I was one of the conspirators, and I suppose that Mr. Bliss was going on the evidence. Of course I do not know what influences he was surrounded by here at night or in the day time, but I have my notions on that subject, inasmuch as the National Republican steadily opposed the Government in its proceedings in these cases, and at that time came out daily with double-leaded editorials against me. For this reason I have no doubt that Mr. Bliss was prejudiced against me and that he was delighted to be prejudiced against me. I have shown you that he began to discredit me at a very early stage, at a time when I certainly had done nothing to justify or provoke any such course on his part.

Q. But my question is, how could he have made the statement that that case rested entirely on your testimony, if he was in possession of your statement that Hinds knew facts which would substantiate your testimony with reference to Brady's improper and illegal action in connection with route 40101?—A. I cannot account for it.

By the CHAIRMAN:

Q. Was not Hinds at that time in the employ of the Government of the United States as a special agent of the Department?—A. That I do not know, but I rather think he was. He certainly was either at that time or later. I know that, however, simply from general report. I do not know it of my own knowledge. You see that as the case stood, instead of Hinds corroborating me, I would have been the witness to corroborate Hinds, because he was the man that had paid the money.

By Mr. STEWART:

Q. But your conversation with Brady would have been direct evidence of his complicity as a public officer in making improper and illegal expedition, and also of his proposing to receive a bribe; because, as you have stated the case, he proposed to you to pay him a bribe, which you declined to do?—A. Yes, sir. In my conversation with General Brady I said to him, "Even admitting that you have a right to this money, as you claim, I consider that when I agreed to pay Mr. Hinds \$20,000, even from your stand-point, I had perhaps made my peace. I certainly would not pay Hinds \$20,000 but for Brown coming to me as a friend of yours and telling me to pay it. Put yourself in my

place and see how you would feel about this matter." But he would not put himself in my place. It was not an agreeable place to get into just then.

By the CHAIRMAN :

Q. State whether, at the time the question was pending as to whether indictment should be found in connection with route No. 40101, Mr. Hinds was not an available witness for the Government.—A. Without doubt. He had made an affidavit, and had gone to the district attorney—

By Mr. FYAN :

Q. When did he make that affidavit?—A. Early in 1881. My contract was not annulled when Hinds published his statement in relation to the Las Vegas and Albuquerque route. My contract was still in existence. That was early in 1881.

Q. Did you ever see that affidavit?—A. I have read it.

Q. Where is it?—A. It was published in the Times. I think I have it somewhere among my papers, but I may not have brought it with me.

Q. Do you say that you have read the affidavit of Mr. Hinds?—A. I have read the affidavit or statement that appeared in the New York Times, and I have it somewhere among my papers.

Q. Did that affidavit set forth the same facts to which you have testified here in relation to route 40101?—A. I rather think it did. The reason why I am not positive about that is that Hinds also made a statement or affidavit in relation to the route from Las Vegas to Albuquerque, and I am a little confused between the two.

Q. For what purpose did he make the first statement?—A. With a view, I think, to its use in prosecuting Brady.

Q. Before whom did he make it?—A. I suppose before the post-office people, probably before Mr. Woodward.

By the CHAIRMAN :

Q. Have you any further remarks to make on Mr. Bliss's testimony?—A. Oh, yes. On page 181 he says, in a letter to Mr. Brewster, dated November 6, 1882 :

As to the other general combinations, that of Barlow, Sanderson & Co., of Kerens and others, while I found *plenty of facts* to excite suspicion, I found nothing that would, in my judgment, secure indictment and conviction.

On page 192 Mr. Bliss says that the Kerens route was one of the worst of its kind, a fraud, the very worst case of all.

Q. Who was Kerens?—A. R. C. Kerens, a mail contractor.

On page 191 Mr. Bliss says :

Among other routes in them was the San Antonio and Corpus Christi route, upon which Mr. Price was the contractor. We always felt, from the knowledge we acquired, that Mr. Price was the man out of whom we were most likely, if we could get hold of him, to get valuable information as bearing upon the general subject; and let me say here, that my theory in all these cases was that the officers were chiefly the guilty men, and that therefore I was at any time ready to recommend the granting of immunity to every contractor or anybody else who would give evidence which was conclusive as against any of the public officers. We procured the indictment on the Corpus Christi and San Antonio route. The evidence with regard to that is substantially contained in the letter transmitting the reports of the special agents, on page 146. The committee will find that it is the case of an expedited route; expedited upon affidavits which were subsequently shown by these inquiries not to contain the facts; and that the Government, therefore, was made to pay a good deal of money that it ought not to have paid. We took some special pains with that route, because we regarded Price as a valuable man to catch, and we sent an officer specially out West

to find a Mr. Ellis, whom the post-office inspectors had failed to find, and whom they reported had gone out into the country somewhere, and they did not know where. We sent Inspector Foster there, and after a great deal of traveling around among the wilds of Texas, he finally found Mr. Ellis, and he was brought here as a witness. On his evidence an indictment was found as against Mr. Price, Mr. Brady being included. At that time there was not available to the Government a particle of evidence of payment of money by Price to Brady to support allegations of that kind.

Now, you see at that point he is taking the part of Brady; he says there is no proof that Brady got any money.

Q. Was there any evidence to that effect?—A. My evidence before the grand jury.

Q. Was Hinds cognizant of it?—A. No, sir.

Q. Was S. P. Brown cognizant of it?—A. No, sir. My testimony was that I knew that one-half of the \$20,000 that was paid to Price went to Brady.

By Mr. FVAN :

Q. You did not testify to that until after Price and Brady were indicted?—A. That was the testimony on which they were indicted.

Q. Then you were before the grand jury as to which we have had testimony here from the foreman?—A. Yes, sir; Brady and Price were indicted by the grand jury that preceded the Hutchinson grand jury.

Q. Was there any other witness against them?—A. I think there was. My impression is that I was told that there was a gentleman named Ellis, but his testimony was not material.

Q. Did you exhibit the same facts before the first grand jury that you did before the second?—A. The Mitchell grand jury was the first. The investigation before that grand jury was quite short; it did not last, I think, over fifteen or twenty minutes, and I see that that is Mr. Mitchell's recollection also. The result was the indictment of Brady and Price. The term of the jury had expired. I was here at the Arlington Hotel, and Mr. Merrick sent Mr. Woodward to ask me to come to his (Merrick's) office. I said I did not know Mr. Merrick and had no business with him, and that I did not like to go. Mr. Woodward said, "Will you receive Mr. Merrick if he comes here?" I said, "I will, very cheerfully." Mr. Merrick called. He stated that rumors had come to him of the character of my testimony before the first grand jury, and he said, "Mr. Walsh, I have come to you in my capacity as assistant United States attorney, and I call upon you as a citizen to tell me whether that was not the character of your testimony." I said, "Mr. Merrick, the character of my testimony was very much stronger than it has come to your ears—very much stronger." Said he, "Will you relate it to me?" I related it to him. He expressed great astonishment—intense surprise. Said he, "Mr. Walsh, George Bliss is a damned scoundrel." I said, "There can be no difference of opinion between us, Mr. Merrick, on that point; there is no difference, sir. If he did not tell you of that evidence, I have no difficulty in joining in your opinion of Mr. Bliss." Mr. Merrick said, "He never told me of it. He has suppressed it all, and with that evidence, Mr. Walsh, the case that is now pending in the court against Dorsey, Brady, and others, and which is in *extremis* [the court had intimated that a motion to dismiss would be entertained], with that evidence we can achieve success." "Mr. Merrick," said I, "I differ from you. I think there is no chance for success. I think your case is the weakest of all the cases, and I differ from you as to the possibility of succeeding, and I would rather not appear as a witness in that case, because it would prejudice my civil action against Brady, and that is my interest after

all. It is not fair to call upon me to come to the rescue in this case." "Oh," said Mr. Merrick, "you will have to do it; and, further than that, I shall go to the court and ask that this grand jury which has been adjourned [the Hutchinson grand jury] shall be called in extraordinary session." That jury had been brought together, and Mr. Bliss had stated that there was no business for them, and, without organizing, they were dismissed; and, upon getting this information from me, Mr. Merrick announced his purpose to appear before the court and demand the reconvening of the grand jury. Had Mr. Bliss stood up and opposed Mr. Merrick in that, I have no doubt that there would have been a culmination of matters at that time; but, as I am informed, Mr. Bliss rushed to Mr. Merrick and asked what was the matter. Mr. Merrick told him what the matter was; and Bliss then said, "There is no necessity of your going any further; I will have the grand jury called together."

By Mr. FVAN:

Q. Do you say that Mr. Bliss had this Hutchinson grand jury discharged immediately upon its organization?—A. Well, I do not know that; but of course the court would naturally ask, "Is there any business for the grand jury?" and it was stated that there was no business, and the jury was adjourned without organization. Then, on Mr. Merrick's moving in the direction he did, and as he was bound to do as an honest man and a man of integrity, Mr. Bliss saw that he could not resist, so he co-operated.

Q. Were you here to testify before that second grand jury?—A. Of course I was.

Q. Was that your object in being here?—A. No, I was not here for any such object. I had come over from New York in relation to other business. Mr. Merrick came to see me and then he had me subpoenaed. He first found out the character of my testimony, I suppose from some member of the grand jury. There was a good deal of talk about it. I went about my business and did not say much, but there was one gentleman, Mr. Beall, I think a book-seller on Pennsylvania avenue, who said, as I have heard, that it was an infamous thing to indict Brady and Price and leave the other man out; that there was no reason in God's world why that should be done; and I suppose it was in some such way that information of my testimony came to Mr. Merrick's ears. At all events, he came to me about it as I have told you.

The second grand jury was called together and I again appeared before it, Mr. Bliss appearing as the attorney for the United States. Well, it did not take me long to discover that there was a large majority of the sons of Belial on that grand jury. [Laughter.] I never got into an atmosphere that was so unmistakably hostile. I felt it intuitively and instinctively. I felt that there was no use in talking there. I read the papers that related to the case, a good many of them, the first day, and I said, "Gentlemen, if you want any more I will telegraph for my papers and have them brought here." That was the first day, so that the papers arrived the next morning. The case was so overwhelmingly strong that—well, comment is unnecessary. Even Mr. George Bliss, in order to hedge, had to come out and state that if he had been a member of that grand jury he would have had to indict; but he omitted to say that he had told that grand jury that it was a serious matter to indict a United States Senator. That was brought out in this way: A certain member of the grand jury had resolved himself from the beginning into a rigid cross-examiner. I recognized that

the defendants were ably represented there. [Laughter.] This gentleman addressed himself to me. We sat around in this way [indicating], and I put the papers on the table, and as I would take up paper after paper I would pass it to Mr. Bliss and Bliss would read it, and he would say, "Gentlemen, do you want to look at this?" Nobody at this end of the table [indicating] looked at the papers at all. The others seated along here [indicating] looked at them in an indifferent sort of way. As the case came out there was one member of the jury, Mr. Semken, a jeweler here, who seemed to be appalled at the idea of one of the appointed being in danger of being indicted. [Laughter.] He would look at me in a dazed way as if inquiring whether the case could possibly be as stated, and I would say, "Yes, that is so." Bliss evidently got very angry with me, in a quiet way, and so did this cross-examiner, Tuesdell. His face got very red, and he got to be just a trifle impertinent, and I said to him, "Mr.—I don't know your name—I think you are crowding matters a little. I have answered that question three or four times, and if you are going to cross-examine me just let me know and I will prepare myself." He said, "You ought to answer the question." I said, "I have answered the question, but you reiterate and reiterate the same question." Said he, "Mr. Attorney, haven't I the right to get an answer from this witness?" Mr. Bliss said, "Yes." I said, "Mr. Bliss, do you assume that the Government ought to exhaust its case in the grand-jury room? If you do, say so." Bliss replied, "No, I do not assume that." "Well," said I, "that is what this gentleman wants. This is not a traverse jury but a grand jury." "Well," said he, "I think you ought to answer;" and it was in that connection that Mr. Bliss finished his remarks by saying, "Well, Mr. Walsh, it is a serious matter to indict a Senator of the United States." To which I replied, "Mr. Bliss, it is a very serious matter that a United States Senator should be a subject for indictment." Bliss says that my language in the grand-jury room was offensive. I think I am never offensive. I certainly never try to be offensive. I felt, of course, that those gentlemen were friends of the people against whom I was testifying, and that my testimony might as well be given to the winds. The next day I came down and produced more papers. I told them I had more if they wanted to look at them. They said "No, no, Mr. Walsh; we have enough." They returned no indictment. Then I published the whole thing in the New York Herald of July 17, which I have with me.

By Mr. FVAN:

Q When Mr. Merrick came to interview you, you told him this story and he was shocked because Kellogg had not been indicted?—A. Yes, sir.

Q. And he declared that Mr. Bliss had not stated to him the facts as you stated them?—A. He said that Bliss had not told him anything about my testimony.

Q. And then he said that he would go and have that grand jury reconvened?—A. Yes, sir.

Q. And that is what was done?—A. Yes, sir.

Q. And when he went up to court for the purpose of having the grand jury reconvened Mr. Bliss volunteered to do it?—A. Yes, sir.

Q. Now, when you asked Mr. Bliss whether he wanted his whole case exposed before the grand jury were you withholding any of the facts from them?—A. They were not hearing my testimony.

Q. But you made the remark you have stated to Mr. Bliss; you asked

him whether he wanted to exhaust the case of the Government before the grand jury?—A. Yes, sir; I asked him that.

Q. Were you at that time withholding any of the evidence in the case?—A. I was not withholding anything; but I was being cross-examined as if it were a petit jury, and I objected.

Q. But if they were asking you about the facts of the case for information why did you not answer?—A. They were not asking me about the facts in that spirit. I have described how they treated me.

Q. I ask you that question so that you may explain, because your remark would create perhaps an erroneous impression that there was some withholding of evidence on your part.—A. There was nothing whatever of the kind on my part. The best evidence of that is that they did not look at all the papers I had there, though I tendered them.

Q. You say that Mr. Merrick wanted to take you before the petit jury that was then trying the case in court?—A. Yes, sir.

Q. And you did not want to go because you said that might jeopardize a recovery in your civil suit against Mr. Brady?—A. Yes, sir; that was it.

Q. But you did go before that petit jury?—A. I went before that petit jury when the case was in *extremis*, but I stepped out from that grand-jury room discredited, in pursuance of what I believe to have been a conspiracy to break down my testimony before the traverse jury. I have not hesitated to say heretofore, and I am reiterating it again now, that that was part of the conspiracy to discredit me before the petit jury and before the country, so that when I got upon the witness stand before the petit jury I should stand in the attitude of a man whose testimony would not be believed by the grand jury.

By the CHAIRMAN:

Q. You have stated that you did not present all the papers that you had to the grand jury on that occasion?—A. Yes, sir.

Q. State whether you presented all that were called for by Mr. Bliss or by any of the members of the grand jury?—A. They did not call for anything. I had the papers there, just as I have them here, and Mr. Bliss read some of them.

Q. Did he read them to himself or aloud?—A. Aloud. Mr. Bliss discharged his duty fully, so far as talking and reading the papers went. I would say, "Here is a letter," &c., and he would take it and read it. There were enough papers presented to have justified the finding of a hundred indictments. I speak now of the papers as far as we got, without reference to what we left untouched. In fact those that were left were the most immaterial anyhow, but the grand jury said they did not want to see any more. The Spofford-Kellogg testimony was in the grand jury room. I early became satisfied that it was there. I said to myself, now that testimony is here. I do not care anything about it, but there are ear-marks of outside influence here. What do these men know about that case? None of these men ever knew me, and how would they know that I had ever testified in that case unless they received the information from outside? When I got through with my testimony and the grand jury said they were done with me, I remarked, "Gentlemen there are still more papers bearing upon the case, if you would like to look at them;" but they hardly looked at them. The members of the jury did not appear to take any stock in the case at all. Some of them tilted back in their chairs, some of them glared out of the window, and generally they showed indifference, and acted in a manner as if to say, "Let that fellow go ahead. We do not believe him

anyhow." I realized that very fully, and then when Mr. Bliss made the remark that it was so serious a matter to indict a United States Senator, I said to myself, "Well, of course these men understand their business."

By the CHAIRMAN:

Q. You did appear before the petit jury?—A. Yes, sir.

Q. What was the purpose of calling you there?—A. It was to establish a conspiracy by my testimony in relation to the payments made to Brady, and Brady's conversations wherein he had said that it was his habit to make these assessments of 20 per cent. per annum.

Q. On what?—A. On the mail contractor's pay whenever he expedited or increased their service.

Q. Did you testify before that petit jury that Mr. Brady had told you that he charged 20 per centum upon the amount of such expedition?—A. Yes, sir; I so testified. I was on the stand three or four days, and you remember that the jury stood ten for conviction and two for acquittal. The foreman of that petit jury, who did some very extraordinary voting on that occasion, was Mr. William Dickson. Mr. Dickson, in attempting to explain his extraordinary verdict and vote, said he had voted as he had because of Walsh's testimony—that he did not believe me. It is very unpleasant for me to repeat this, but you see I have to do it in my own behalf. He said, among other things, that the reason he did not believe me was that when he was secretary of what was known here as the Yellow-Fever Commission, a body organized to aid the Southern sufferers from yellow fever, I had attempted to have paid by that commission a fraudulent voucher belonging to Lieutenant Benner, who, as the committee will remember, was in command of the boat that went from Saint Louis to Vicksburg, and who died of yellow fever. He belonged to the Eighteenth Infantry. Lieutenant Benner had obtained some discounts on vouchers from me, and after getting my money he volunteered to take charge of this yellow fever boat, and he died at Vicksburg. As I have said, there was organized at that time a yellow fever commission, of which Alexander Shepherd was a member and Dickson was the secretary. After the death of Benner the people of the country were appealed to, and it was suggested that there should be contributions raised for his family. The result was that this commission was in some way put in charge of the fund, which swelled to rather large proportions, and it occurred to me that perhaps I might get my pay from the commission out of that fund; at all events I thought there was no harm in asking for it. I sent my clerk to see some of the gentlemen of the commission. My clerk knew Dickson whom I did not know, so he went to Dickson, showed him the vouchers, and told him all the facts in relation to the case, and said to him, as I understood, "Now, don't you think that this ought to be paid? Don't you think that it is perhaps a debt of honor, a sacred debt? Mr. Walsh discounted those vouchers for Benner under peculiar circumstances. Benner was very necessitous and very importunate, and Mr. Walsh let him have the money, and I think it ought to be paid." Dickson was rather encouraging at first. Shepherd went to see the other members of the commission, and they said they did not like to pay the claim; that perhaps the people who had contributed to the fund would say that they had not contributed their money to pay any banker's debts, and that they were afraid to pay it, although they would like to do so.

I then wrote to Mrs. Benner about it, thinking that perhaps she would

feel disposed to pay her husband's debt, incurred under such circumstances; but she would not pay me, so I dropped the matter and heard no more of it until Mr. Dickson stated that it was on account of this "fraudulent" claim that he would not believe me as a witness. In connection with this matter there were the most infamous publications made about me in the Critic here, calling me a "ghoul" and all that sort of thing. I asked the Government to protect me as a witness and to prosecute these libelers, but Mr. Bliss said he did not think the Government was bound to protect its witnesses in that way. Mr. Merrick thought I ought to be protected, but still there was nothing done. There was a Pickwickian motion made in court one day, at the usual compensation, \$100 a day, and that is all that was done about it. I assure you, gentlemen, that if the Government's treatment of witnesses generally who testify in its behalf is to be such as it accorded me it will require a man of the most extraordinary strength of character to venture upon the stand as a witness. He will be entitled to promotion. I have a very considerable fund of aggressiveness in me; I was born very far South, and I have been accustomed all my life to fighting odds, so that I perhaps go into it *con amore*, but I have had just as much as I could do to hold my ground.

Now, I have here Benner's vouchers and the checks given to Benner, which bear his indorsement. I will read his letter to me asking this loan:

McPHERSON BARRACKS,
Atlanta, Ga., September 12, 1878.

DEAR SIR: You are already aware of the fact that I have anticipated my accounts up to December 31, 1878, and my present circumstances impel me to inform you of the necessity therefor. Last summer, in Columbia, S. C., I became entangled in an affair of a peculiar nature, which, to avoid an unenviable notoriety before the public, forced me to raise \$800 to satisfy the other party concerned. This, with other necessary expenses (outside of my own individual wants), has strained me so badly that, to meet my obligations and preserve my honor, I must realize \$250 from some source on or before the 25th instant, and, to be frank, I scarcely know where to look for it excepting yourself. In this extremity I must ask if you would be willing to take my accounts for two months further at 5 per cent., and send your check so that it would reach me on 25th instant? If so, please telegraph me (night message) at my expense, and oblige,

Very truly, yours,

H. H. BENNER,
First Lieutenant, Eighteenth Infantry.

J. A. WALSH, Esq.,
Washington, D. C.

(Indorsed:) Lient. H. H. Benner. Telegraphed him willingness to comply on account of circumstances.

You have heard Benner's letter, and here are the checks and other vouchers, from which you will see that if I was a "ghoul" I was at least an odd one:

No. 29.]

WASHINGTON, Aug. 23rd, 1878.

Winslow, Lanier & Co.: Please to pay Lt. H. H. Benner, or order, three hundred and seven $\frac{98}{100}$ dollars.
\$307.98.

J. A. WALSH.

(On the left-hand margin:) W., L. & Co. (Stamp.)

No. 37.]

SEPT. 5th, 1878.

Winslow, Lanier & Co., 27 Pine street: Please to pay Lt. H. H. Benner, or order, one hundred and thirty dollars.
\$130.00.

J. A. WALSH.

(On the left-hand margin:) W., L. & Co. (Stamp.)

No. 3.

The United States to 1st Lieut. H. H. Benner, 18th Infantry, Dr.

Salary.	From—	To—	Months.	Pay per year.	Amount.
For over fifteen years' service.	The 1st of Nov'r, 1878.	The 30th of Nov'r, 1878.	1	1,950 00	162 50
					<u>\$162 50</u>

I certify, on honor, that the amounts charged in the foregoing account are correct and just, as authorized by law, and that they are rightfully due me as stated, and that I am not in arrears with the United States on any — whatsoever.

I was last paid to October 31st, 1878, by Paymaster —, and I acknowledge to have received this — day of —, 187 —, of Paymaster U. S. A., in full of this account, the sum of one hundred sixty-two & $\frac{50}{100}$ dollars, by check No. — on —.
(Signed in duplicate.)

H. H. BENNER,
1st Lieut., 18th Infantry.

No. 3.

The United States to 1st Lieutenant H. H. Benner, Eighteenth U. S. Infantry, Dr.

Salary.	Time paid for.	Months.	Pay per year.	Amount.
For myself for over 15 years' service.	From 1st Dec'r, 1878, to 31st Dec'r, 1878.	1	\$1,950 00	\$162 50

I certify, on honor, that the amounts charged in the foregoing account are correct and just, as authorized by law, and that they are rightfully due me as stated, and that I am not in arrears with the United States on any account whatsoever.

I was last paid to November 30th, 1878, by Paymaster —, and I acknowledge to have received this — day of —, 187 —, of Paymaster Wm. B. Rochester, U. S. A., in full of this account, the sum of one hundred and sixty-two & $\frac{50}{100}$ dollars, by check No. —, on the U. S. —.

(Signed in duplicate.)

H. H. BENNER,
1st Lieut., 18th Infantry.

These are the papers that that man Dickson saw. They were shown to him as secretary of that commission, and with the full knowledge of the genuineness of these papers and their character he gave to the world the statement that the reason he did not believe me as a witness was that I had attempted to pass a "fraudulent" claim before that commission. I have asked the Government time and again to prosecute the men who thus libelled me, claiming that it was nothing but simple justice to me that they should be prosecuted; but Mr. Bliss said no, no; that he was opposed to it; that the Government was not called upon to "fix up these fellows" that happened to be witnesses in its behalf.

By the CHAIRMAN:

Q. Lieutenant Benner was an officer of the Army, and simply applied to you to have his pay discounted in advance?—A. Yes, sir; Mr. Benner did nothing that was at all improper in the matter.

Q. And after obtaining that loan from you he died of yellow fever.—A. Yes; he volunteered and died like a man. Having made the loan under such circumstances, and there being a considerable fund raised, I tried first to get my pay through that commission, and having failed

there I thought that perhaps Mrs. Benner, having this money, might feel moved to pay her husband's debts of this character, but she did not, and I dropped the subject, as I have dropped thousands of other debts in my life, and I thought no more about it until Mr. Dickson was kind enough to revive it in this slanderous manner. Here is what the Critic said about me. [Reading:] "John A. Walsh, a ghoul as well as a liar." Where I was born it would cost a man his life to put that in type, or else he would shoot me first, but up here I have changed my ethics. Here is the heading of this Critic article in full:

JOHN A. WALSH.

A GHOUL AS WELL AS A LIAR.

Uncovering an Honored Grave and Insulting the Memory of the Dead—A Brief Sketch of the Yellow Fever Scourge in 1878, and of Lieutenant Benner's Heroic Self-Sacrifice—A Fund Raised For the Relief of Mrs. Benner Excites Walsh's Cupidity, and With the Aid of Ben. Shekell He Tries to Get a Slice—The Infamous Proposition Which Shekell Wanted Dickson to Sign—Walsh and His Clerk Convicted Out of Their Own Mouths.

And here is an extract from the National Republican, the organ of the Administration, the organ of the party to which I belong, and for which I have spent a great deal of money in an endeavor to advance my own theories, which I merely claimed I had a right to do, though many of my ex-Confederate friends insisted I had not. Dickson said: "There was nothing against Brady until Walsh's testimony was introduced, and that evidence I placed no weight on uncorroborated." He also said in a significant way that he had known me in New Orleans. I went to see Mr. Dickson, and said to him, "You say you knew me in New Orleans; a great many people in New Orleans knew me, and really I think I am known quite favorably there. Some of the people there believe I am a crank on political matters, but that, you know, is not criminal. Now, will you kindly tell me what you know about me in New Orleans? I do not remember that I ever had the pleasure of your acquaintance there." "Well," said Dickson, "that part is a mistake; I did not know you there, but I saw you one night crossing the rotunda of the Saint Charles Hotel. I was talking to Governor Warmoth and Mr. Fairfax, the secretary of state, and Governor Warmoth said, 'There goes John Walsh.'" Said I, "Was that the extent of your acquaintance with me?" He answered, "Yes, sir." "Well," said I, "that is good; that is a good reason certainly for not believing me under oath." Dickson in this interview goes on to speak of the remissions made in my favor as having something to do with my testimony.

Now, the remissions had been made, as I have testified, just about one year or, perhaps, thirteen or fourteen months before I went upon the stand as a witness.

Q. Was there anything in the cross-examination in the Dorsey-Brady case to bring that evidence to the knowledge of the petit jury?—A. Yes, sir; Brady had made remissions in all or nearly all cases. That fact also was brought out. It was an entirely proper thing to make remissions on a proper showing. There was nothing wrong or irregular in that. It is the practice of the Department. But the main point made by Dickson was that I had presented a fraudulent voucher in the Benner case. Of course I do not for a moment imagine that the man really thought it, but if he did, I have shown what evidence he had to go on.

Q. After the adjournment of this grand jury without indicting, when did

you next appear as a witness in any of these cases?—A. I published in the New York Herald and the New York Times what my testimony had been. As a result, a cry of indignation went up all over the country, and representatives of the Government felt that another effort must be made. Mr. Merrick, at least, felt that way. I do not believe George Bliss ever felt that way; I think he thought that there ought not to be any effort made. At any rate, in December, 1882, or somewhere along there, Mr. Merrick wrote me some letters in relation to appearing again as a witness before the grand jury to secure an indictment on the evidence which would be adduced. I received Mr. Merrick's letters and answered them. I refused to appear as a witness for the United States if the Government was to be represented by George Bliss in the grand-jury room. I refused on the ground that Mr. Bliss was not an honest man, and that Mr. Merrick knew as well as I did that he was not an honest man. I said that in my opinion Mr. Bliss was as much a defendant as any man at the bar of that court, and that it was an utter travesty of justice to pretend to prosecute anybody in these cases through the agency of Mr. Bliss.

By Mr. MILLIKEN:

Q. What was your opinion based upon?—A. It was based upon what Mr. Merrick had told me about him as to his neglect or omission to tell Mr. Merrick of the testimony given by me before the first grand jury. Mr. Merrick told me that Bliss had never mentioned that testimony to him, and my opinion was based upon that mainly. Mr. Merrick felt indignant about Bliss's conduct in that matter. He said it was a violation of professional etiquette and of good faith, and that it had left him utterly in the dark. He said, "Here is a case staggering through court and here is evidence that we might have had all the while. I have not been able to see you. I have repeatedly asked Bliss to bring us together, but, for some reason or other he has failed to do it right straight along."

Q. Was an indictment found by the grand jury?—A. An indictment was found against Brady and Price. Mr. Mitchell, the foreman of the first grand jury, testified here that I gave testimony in the Brady-Dorsey case. I never did. Mr. Mitchell was mistaken about that. The only testimony I gave before the Mitchell grand jury was in relation to Brady, Price, and Kellogg, and Brady and Price were indicted.

Q. Then the testimony was not kept from the grand jury by Mr. Bliss?—A. No, sir. I gave the testimony before the grand jury.

Q. And no indictment was found?—A. An indictment was found against Brady and Price, but Kellogg was left out, and Mr. Merrick afterwards came to see me in relation to what my testimony had been before that grand jury, it having come to his knowledge in some vague way.

Q. Do you testify here that Mr. Bliss was a dishonest man because he did not communicate all the testimony that was given before the grand jury?—A. Yes; because he did not tell Mr. Merrick about my testimony, and further, because I thought his expression before the grand jury that it was "a serious matter to indict a United States Senator," was made in the interest of one of the defendants. I did not think it was a proper remark, or made for a proper purpose.

Q. The foreman of the grand jury testified here that he did not make that remark.—A. Mr. Mitchell testified that Mr. Bliss did not make that remark before the grand jury of which he (Mitchell) was chairman; but it was not before that jury that the remark was made; it was before

the Hutchinson grand jury, and Mr. Hutchinson, the foreman of that grand jury, testified here this morning that Mr. Bliss did make the remark there.

I wish now to read one of my letters to Mr. Merrick, giving my reasons for not appearing. Mr. Merrick sent me this telegram:

WASHINGTON, D. C., Dec. 26, 1882.

JOHN A. WALSH:

You have seen a certain person, and you now understand my letter. I must see you Wednesday morning. Come to-night. You can take your testimony in your civil suit Wednesday.

R. T. MERRICK,
Special Assistant United States Attorney General.

In reply I wrote him the following letter:

NEW YORK, December 29, 1882.

Hon. R. T. MERRICK,

Assistant United States Attorney-General, Washington, D. C.:

MY DEAR SIR: Your wire of 26th instant at hand. From its tenor I infer that the prosecution has a witness in its behalf, whose testimony will prove valuable as against the star-route conspirators; but whether or not that is a result desired by the prosecution, as a whole, or by this Administration is subject to many and grave doubts in my mind. In obtaining this additional evidence I recognize solely your indefatigable energy and singleness of purpose, which must be gratifying to every good citizen, but especially so to me, as the Government can now not only make out its case against the present defendants but the other and, as yet, unscathed star-route conspirators, whom your associate, Mr. Bliss, seems so anxious to protect. With this evidence I was in hopes that you would feel strong enough to go ahead without calling on me to make any further sacrifices of my time and feelings.

Surely it cannot have escaped your observation that I have been libeled—criminally libeled—by sundry persons in the District of Columbia, all of whom are known to you; that I have been abused in the most shameful manner in open court by counsel for the defendants, without any interruption from you or your associate counsel for the Government; that a respectful communication addressed by me to Attorney-General Brewster remains unanswered to this day; that all faith, implied and expressed, as regards me has been violated, and yet this same Government that has accorded me such infamous treatment calls on me again to make sacrifices. It appears to me that this is asking too much when you reflect that the Government in the past has completely failed to give me any protection whatever.

Failing to secure a reply to my communication addressed the Attorney-General of the United States, I wrote to the President, and although ten days have elapsed no response from him. Perhaps he too has referred my communication to George Bliss, esq., for "arbitration."

As an American citizen, as one of the sovereign people of the United States, I have, in the exercise of my rights as such, addressed respectful communications to the President of the United States and his Attorney-General, neither of whom deigns to reply. If this be not the insolence of office, what is it? Or is this silence born of a brotherly sympathy for an erstwhile Warwick and comrade, now a defendant at the bar of a criminal court?

It is fresh in my memory that this same Attorney-General, who apparently has no time to answer my communication, occupied the valuable time of the court in the first star-route trial in paying a tribute of respect, officially anointing the star-route partner of the ex-Senatorial defendant, one whom public opinion says should also have been a defendant at the bar!

It is true, I have not rendered the distinguished law officer of the Government yeoman service, such as the annointed did on the occasion of the "Dorsey-Brewster" meeting at the restaurant Chamberlin, on which occasion rumor says these distinguished men "fraternized."

On my part, I might plead, if I were given the opportunity, that I had rendered the state, the people, some service at great sacrifice to myself, which fact, in addition to my rights as a citizen, might have plead that I be treated with at least a semblance of courtesy by the Chief Magistrate of the nation and his law officer.

I regard my appearance as a witness in these cases as entirely attributable to you; and to you as the representative of the Government I shall now look for that protection which is due a witness for the United States. I have appealed to the Attorney-

General and the President of the United States asking that the law be enforced without obtaining any satisfaction whatever, and I now appeal to you as Assistant, United States Attorney-General to see that the laws are vindicated by the prosecution, without fear or favor, of these conspirators and their associates, no matter how exalted their official status, even though they be members of the Cabinet.

If you are prepared to proceed as your sense of justice and of duty to the people dictate I am ready to aid you to the best of my ability, but I say to you frankly there must be no more halting, no more dependence on others, whom you know are not in earnest, and probably dare not be so, even though they would. No man knows better than you the course that this Government should pursue, and no one knows better than you how cowardly it has proceeded.

The gravity of the issues involved in this struggle is known to no person better than yourself. The difficulties to be overcome are great, and, in my opinion, the time for throwing aside professional etiquette has arrived. Men and their acts must be called by their proper names. Simple citizens must not be expected or permitted to bear unaided the brunt of this war, else all will be lost. Never did the armed hosts of the rebellion threaten the Government with as much of danger, as much of evil, as now menace its welfare, its very existence. From all points of the compass come these plunderers to aid their brethren in danger. Their battalions are formidable, their officers occupants of high official places, and if you do not sound the tocsin of alarm the battle will be lost. If you do not who will? Who can?

Whenever I again appear to testify before a grand jury in the star-route cases it will be only when the Government is represented in the jury room by yourself or some other gentleman who is not as much on trial, in my opinion, as the present defendants; one in whom you, and honest men like you, have confidence.

Whenever you assure me that you will appear before the grand jury as the representative of the Government; that the Government will prosecute the men who have criminally libeled me because I testified to the truth in its behalf; that the member of the late grand jury, together with his official and other coconspirators, who violated the law by bringing into the grand-jury room the Spofford-Kellogg testimony, will also be prosecuted as the law directs, I shall appear and give my testimony.

You will recall that you volunteered to me the statement that you would see that as a witness of the United States, under subpoena from its judiciary, I would receive the protection of the law. This assurance was made me at a time when you felt that such unheard of abuse was being heaped upon me that my outraged feelings might find expression in some rash act. You counseled me to be calm, to maintain perfect self-control, and you would see that the law afforded me ample protection. When you thus assured me you undoubtedly supposed that your associate counsel felt as you did as to the methods to be pursued in such cases. Having had ample time and opportunity to learn how radically your views and at least one of your associate's differ, I take it that in giving out your personal assurance hereafter you will understand the necessity of seeing personally to the execution of the same.

Yours sincerely,

J. A. WALSH.

The letters, of which this is one, show why I questioned the honesty of Mr. Bliss. I questioned his honesty of purpose, and in view of the evidence that he has given before this committee I feel that I was more than justified in doing so.

By Mr. MILLIKEN :

Q. Now, I will take a hint from your letter and ask you this question: Did you question the honesty of the Administration in those prosecutions?—A. Yes, sir; I doubted it very much.

Q. Did you question the honesty of the President?—A. I do not know that the President had anything to do with it. I do know, however, that we have had no expression from the President similar to that that we had from President Garfield. We have not had any expression from the President calculated to lend any moral support to the prosecutions. We had, so far as we had anything, an intimation that the Administration was *not* in favor of the prosecutions, because its organ, the National Republican, opposed them. I am speaking now as a Republican.

By Mr. STEWART :

Q. When you say "we," what do you mean ?—A. I speak as one of the people—an American citizen.

Q. I do not understand that you undertake to say that President Arthur ever manifested any disposition to smother or suppress or hinder in any way the star-route prosecutions ?—A. I think, if you will refer to Mr. MacVeagh's testimony you will find that he said that he received no moral support from this Administration; I think you will find that he says he retired from the Cabinet because he did not have the moral support of the Administration.

Q. We know what Mr. MacVeagh testified to.

The CHAIRMAN. Did you appear before another grand jury subsequent to the Hutchinson grand jury ?—A. Yes, sir; I appeared before a third grand jury.

By Mr. MILLIKEN :

Q. Did the prosecution in the star-route cases receive sympathy, support, and encouragement from President Garfield and his Administration ?—A. (After a pause.) You will have to define that question more clearly.

Q. You have testified that the star-route prosecutions received no support from President Arthur's Administration.—A. I say we have had no public expression of opinion in that direction.

Q. Now, I ask you, how was it in that respect with President Garfield's Administration—either the President himself or his prosecuting officers ?—A. We had from President Garfield a direction that his prosecuting officers should "cut the ulcer to the bone," hurt who it might.

Q. How were the prosecuting officers, the Attorney-General and the Postmaster-General, under President Garfield in that respect ?—A. Mr. Wayne MacVeagh, I think, proceeded with the utmost vigor; and Mr. Attorney-General Brewster, I am satisfied, would have proceeded in the same manner had he had the same lights that Mr. MacVeagh had; but Mr. Brewster met entanglements which he was not responsible for, and which served to mislead him. I am satisfied that in the past I have criticised Mr. Brewster erroneously, unnecessarily, and not at all fairly. I say this in the light of his explanations to me, and in the light of such facts as have come to my knowledge otherwise. I feel that I have done him an injustice.

Q. Who was responsible for the "entanglements" of which you speak ?—A. Mr. George Bliss.

Q. Then it is your opinion that Mr. Bliss entangled Mr. Brewster ?—A. It is, sir. I think he entangled everything and everybody.

By the CHAIRMAN :

Q. Did you get that from the Attorney-General ?—A. No, sir. The Attorney-General simply said to me, in relation to my letters to him and in relation to Mr. Bliss, that his mind had been poisoned against me by Mr. Bliss, who had set about it very early and assiduously. You will see how early from the quotation I have made from an interview with him away back in February, 1881, in which he animadverted upon me, for which he afterwards apologized. On the occasion of the calling together of the Hutchinson grand jury we met in the ante-room, and after some conversation Mr. Bliss said to me, "Mr. Walsh, I suppose you have seen an interview with me which was unfortunately published some time ago, in which I reflected upon you?" I said, "Yes, I

have read that." "Well," said he, "in the light of subsequent events I feel that I did you great injustice there, but I hope you won't have any feeling about it." I said, "I have no special feeling. Of course I can see that, taking the average man as you have come in contact with him, you had formed probably about a proper estimate." Said he, "That is just about it." Now, thought I, here is a man who has done me a wrong, and done it publicly, and who admits the wrong. Why not, then, make the reparation as public as the injury? I felt that he was not acting manly with me; not doing as he ought to have done; but I let it pass.

Without concluding the examination of the witness the committee adjourned.

WASHINGTON, *May* 11, 1884.

JOHN A. WALSH recalled and further examined.

By the CHAIRMAN:

Question. When the committee adjourned I believe we were approaching the time when you were to appear before the third grand jury?—Answer. Yes, sir.

Q. Please state whether you did appear before that grand jury, who was the foreman of it, and what was done there.—A. Some events occurred prior to my appearing before the third grand jury which, I think, had better be stated in chronological order before I come to what took place before the jury.

Q. Very well; please make whatever statement you desire of those matters.—A. For example, I referred yesterday to libels that were printed in two papers. In that connection I might state that one of those papers, the Critic, was owned by Thomas J. Brady, ex-Second Assistant Postmaster-General, and the other paper, the National Republican, was owned by Mr. George Bliss, Secretary of the Navy Chandler, and other friends.

By Mr. STEWART:

Q. Other friends of yours do you mean?—A. Well, I thought I would leave that blank. I might say, however, friends of the Administration. So that the spectacle was presented of a gentleman engaged as a representative of the Government in prosecuting certain defendants, while at the same time the paper of which he was part owner was denouncing the prosecution and abusing the witnesses for the prosecution.

By the CHAIRMAN:

Q. Do you know what interest Mr. Bliss had in the Republican at that time?—A. I understood that he, with twenty-nine other gentlemen, friends of President Arthur, purchased the paper, each putting in \$1,000.

Q. How much was Mr. Bliss's interest?—A. One thousand dollars, as I understood. Mr. Bliss commenced negotiations with Mr. Brady for the purchase of Brady's interest in the paper about the time the prosecutions began.

Q. What was Brady's interest?—A. I think he held a controlling interest—just a fraction over a controlling interest of the stock. On account of this arrangement Mr. Bliss was probably imbued with General Brady's prejudices against me. I think that is evidenced by his going into print on the subject as early as February, 1882, as I have shown you he did.

Prior to my being served with a subpoena to appear before that grand jury several letters were addressed to me by Mr. R. T. Merrick, Assistant United States Attorney-General, calling upon me to come here and testify. Necessarily I had to answer them, and further, I had necessarily to state what were my objections to appearing. I think, Mr. Chairman, that in justice to me, and as tending to show the condition of things at that time, I may properly ask to be permitted to file those letters as a part of the record here. I do not wish to take up the time of the committee in reading them all, but I read one of them yesterday.

Q. Those letters state your reasons for refusing to appear or for desiring not to appear?—A. Yes, sir.

Q. And those reasons are, in substance, that the attorneys on the part of the prosecution or some of them, were not acting in good faith?—A. Yes; Mr. George Bliss. I did not speak of any other attorney.

The CHAIRMAN. I suppose the letters may be filed.

The letters will be found at the end of this testimony.

Mr. Merrick, in response to my complaints of the non-prosecution of these people who had libeled me, did tell me to go to Mr. Corkhill, then district attorney, and file my papers with him. I am referring now to the libels upon me in the matter of the Benner claim, a libel uttered by Mr. Dickson and printed by these papers. I told Mr. Merrick that I did not think there would be any action taken in the matter. Indeed, I said, "I do not know that I want Mr. Corkhill to prosecute the cases. Mr. Corkhill is a very amiable gentleman, a very pleasant man no doubt, but he has very friendly relations with those gentlemen, and I do not think he will ever sit up o' nights to prosecute them." "Well," said Mr. Merrick, "give him the papers, and I will talk with him and tell him that it is his duty to prosecute them." Well, I gave Corkhill the papers. Five or six weeks elapsed (I was here at the time) and Mr. Corkhill did nothing, and finding that he was doing nothing about it I sent for the papers; I told my attorney, Mr. Thomas, to go and get back the papers. I had given Mr. Corkhill the original papers in the Benner matter. The papers were turned over to Mr. Thomas very cheerfully, I believe, and he sent them to me in New York. Of course, as I have said, that was the result I expected. I did not expect Corkhill to prosecute, and I did not want him to prosecute, those parties anyhow, because I thought he was not the man to do it; but later on Mr. Corkhill, moved probably by something that Mr. Merrick had said to him, wrote me the following note:

OFFICE OF THE ATTORNEY OF THE UNITED STATES,
FOR THE DISTRICT OF COLUMBIA,
City of Washington, May 29, 1883.

Mr. JOHN A. WALSH,

Care of Mr. E. H. Grandin, 11 Wall St., New York:

SIR: I herewith enclose subpoena for you to appear before the grand jury, one having been sent to the U. S. marshal and returned "not found." Please accept service thereon and come as soon as you can.

Very respectfully,

GEORGE B. CORKHILL,
U. S. Att'y, D. C.

I can best tell you how I treated that by reading the indorsement which I made upon it.

Letter from Corkhill, dist. att'y, dated May 29, 1883. No answer necessary to this; as the absurdity of his appearing before a grand jury to prosecute for slander, etc., such friends of his as Dickson *et al.* is so patent that comment is unnecessary.

I felt that the Government was going through the Pickwickian operation of turning me over to Corkhill, who had never been intrusted with any share in the prosecution of the star-route cases, and I objected to that; I thought that my services to the Government entitled me to the very best counsel. I wanted the expensive counsel, the \$100 a day men. [Laughter.] I did not think Corkhill was a good enough counsel to prosecute the matter, so, of course, I paid no attention to his letter.

Now, prior to these letters to Mr. Merrick, I addressed a letter to the Attorney-General in November, 1882. I set forth in that letter what had occurred in the grand-jury room on my second appearance. I stated it as briefly as I could. I called the attention of the Attorney-General to what I conceived was Mr. Bliss's lack of faithfulness to the Government. To that letter I received no response. Later on I thought I would write the President, and I wrote him a letter inclosing the one that I had written to Mr. Brewster. I received no reply to that. Then I wrote the letters to Mr. Merrick, referring in them to this letter to the President. The reading of those letters will develop the fact that I set forth in them what Mr. Bliss was doing, and begged that his proceedings should be looked into. That was not done. I have here first the letter to Mr. Brewster, the Attorney-General, and next the letter to the President. I suppose I can put them in.

By the CHAIRMAN:

Q. Those letters relate to the good faith of Mr. Bliss in the matter of the prosecution of the star-route cases?—A. Oh, yes.

Mr. VAN ALSTYNE. It seems proper that the letters should be admitted, if they conveyed information on this subject to the Attorney-General and the President.

The WITNESS. They conveyed it to everybody. I have done my duty in the matter. If some other people have not done theirs, owing to total depravity or "professional etiquette," that is not my fault.

Mr. STEWART. It would seem to be entirely proper that the letter to the Attorney-General should be put in evidence here, but it appears to me that there may be some objection to putting in the letter to the President. The Attorney-General was the responsible law officer of the Government; if this matter belonged to anybody it belonged to him, and if there was any issue of any sort between a Government witness and any of the prosecuting officers, probably the Attorney-General would be the proper authority to appeal to; whereas the President could not say anything in the matter.

By the CHAIRMAN:

Q. Did you reiterate substantially in the letter to the President the facts which you had stated in the letter to the Attorney-General?—A. I set them forth very much more fully in the letter to the President.

Mr. VAN ALSTYNE. There is one other consideration. If this letter, by its statements of facts, tends to inculcate the Attorney-General, perhaps he should have extended to him the comity of exculpating himself, because it has been stated here that Mr. Bliss was brought into the prose-

ecution of these cases by reason of his relations with the Chief Magistrate.

Mr. STEWART. I do not think that is any reason. It does not appear that Mr. Bliss was appointed by President Arthur or at his suggestion or request. He was appointed really by the former Postmaster-General and Attorney-General, and I think it is going far enough to put in the communication to the Attorney-General. Of course, viewed in any light, the letter is entirely an *ex parte* statement. It is merely a statement of what Mr. Walsh conceived to be the true situation at that time. I think there can be no impropriety in putting in the letter to the Attorney-General, but I do not think the communication to the President is in the nature of any evidence that we ought to consider or receive.

The CHAIRMAN. Of course a letter simply addressed to the President would not commit him to anything. I suppose if we look into the matter it will appear that the President simply referred the letter to the Attorney-General.

Mr. STEWART. Yes; but the President cannot say anything as to what he did; we are not a committee appointed to investigate the President of the United States; we are investigating the Department of Justice, and anything that falls within the scope of that Department, from the Attorney-General down, properly comes within our jurisdiction. It is entirely proper for Mr. Walsh to communicate his understanding of the situation to the Attorney-General of the United States, and I think that any communication made to him on the business of the Department is proper evidence to be received by us. Of course every citizen has a right to address a communication to the Chief Magistrate. I do not question at all the propriety of Mr. Walsh's act in writing to the President, but I think the matter ought to stop there. It is nothing to us what he did. In other words, I do not see what bearing it has upon any issue that we are trying or investigating. It is a mere matter of gossip to state here what he wrote to the President. We have seen enough of Mr. Walsh to know that he understands tolerably well how to put his ideas together either on paper or orally, and it is quite apparent that he can state a very strong case without any great amount of effort. Now I think that if we put in his statement of the case to the Attorney-General and then his further statement, which we have already, that he addressed a letter to the President setting forth more fully his view of these matters, we ought to stop there.

Mr. VAN ALSTYNE. Our investigation has taken a very wide range. It has been sworn to, I think, by one of the prosecuting officers in the star-route cases, and a late Attorney-General of the United States, that those prosecutions during some portion of their progress did not have even the moral support of the Administration. That is very well so far as it goes. Then I suppose the purpose of this evidence is to show that the Department of Justice has been derelict, and I think that perhaps, under all the circumstances of the case, it might be well enough to receive the explanation, or what may be presumed to be an explanation in part, with the allegation.

By the CHAIRMAN:

Q. Was this letter to the Attorney-General written on the date which it bears, November 3, 1882?—A. It was.

Q. Are the facts stated in this letter true?—A. Undoubtedly, sir; to the best of my knowledge and belief. Of course I do not undertake to state anything else.

Q. I understand that you desire to present this letter as a part of your evidence in relation to matters that were then taking place with reference to the star-route prosecutions?—A. Yes, sir.

The CHAIRMAN. If there is no objection, the letter to the Attorney-General will be received.

By the CHAIRMAN:

Q. Now, as to the letter to the President; was it written at the date it bears, December 18, 1882?—A. Yes, sir.

Q. Are the facts stated in that letter correct?—A. Yes, sir; to the best of my knowledge and belief.

The CHAIRMAN. What is the pleasure of the committee as to the reception of this letter?

Mr. Fyan moved that the letter be received and made part of the record.

After some further discussion the committee decided by a vote to receive for examination the letter to the President and the other letters offered by the witness in evidence but not read, postponing for the present the determination of the question of their admissibility. The letters were subsequently admitted and will be found at the end of this testimony.

The witness offered to read in evidence an editorial published in the New York Herald calling upon the President if he wished the prosecution of the star-route cases conducted honestly to dismiss Mr. Bliss.

Objection was made to the reception of the editorial and the objection was sustained.

The CHAIRMAN. Now, Mr. Walsh, you may proceed with your statement.

The WITNESS. I have here a letter which I addressed to the Second Assistant Postmaster-General, Mr. Elmer, in relation to the month's extra pay, which I should like to read.

The witness read the letter as follows:

WASH., Jan. 21, '82.

R. A. ELMER, Esq.,
2 Asst. P. M. G., Wash.:

SIR: Touching the matter of the month's pay on route No. 40101, I would most respectfully suggest to the Department that in all fairness and as a matter of law payment should be made me without any further delay. It is not the theory of the Government that injustice should be done any of its citizens, especially when the latter in their dealings with it are not charged with fraud or evasions of the term of contract had with it. In my contract with the Department on route No. 40101 I faithfully executed the provisions contained therein, and on that point I challenged the most rigid inquiry, from its commencement down to the time of its discontinuance. As I understand it, the principal obstacle lying in the way of this payment to me is based upon an order made by Mr. Brady (then 2 Asst. P. M. G.) annulling my contract, because, as he was pleased to allege, of "abandonment of service." In point of fact there never was an abandonment of service on my part, and the record does not support him in his alleged reason for annulling my contract. There is no occasion, however, for my discussing this point, as the bureau over which you preside has substantially refused to believe that I abandoned the service. All that I ask now is that you carry out legally and logically to the end the spirit expressed in the orders issued by you rehabilitating me, orders bearing on their face the impress of the fact that the Department very properly discredited the action taken against me by the late 2nd Asst. P. M. G.

If, however, the way does not appear clear to you at this time to allow me the month's payment on the entire length of the route, as it stood originally from Albuquerque to Prescott, then I suggest that I at any rate be now paid the one month's pay on that part of the service which was ordered carried by mail from Albuquerque to Fort Wingate. The order issued by Mr. Brady *discontinuing* star service from Albuquerque to Fort Wingate preceded this one, wrongfully *annulling* my contract from Fort Wingate to Prescott, and on its face I was entitled to the allowance promised by law in such cases. Route No. 40101, as you found it and as you discontinued it, was from Fort Wingate to Prescott. I again repeat that Mr. Brady had discontinued that part

of No. 40101, from Albuquerque to Fort Wingate because of completion of railway, and it is on that part of the said route that I think there certainly can be no ground for longer withholding the month's pay. I cannot refrain from trusting, however, that you will find me entitled, in your judgment, to payment now in full of the entire allowance.

In conclusion, I thank you for the patient hearings which you have given me in this matter and the sense of justice which has directed you in repairing, as far as legally lay in your power, the injustice which had been done me by the corrupt and unscrupulous act of your predecessor.

Respectfully,

J. A. WALSH.

Mr. VAN ALSTYNE. I object to the admission of that letter in evidence, on the ground that it is entirely irrelevant to the matter in hand and is not within the scope of our investigation.

Mr. MILLIKEN. It seems to me that the letter is irrelevant.

The CHAIRMAN. I think I can explain the relevancy of it. Mr. Walsh was objected to by Mr. Bliss as a witness for the Government, Mr. Bliss charging upon him that he was a co-conspirator with the other parties, and that he ought to be a defendant instead of a witness. Mr. Walsh explained yesterday the nature of the claim that he had against the Government on account of his service as a mail contractor. His claim is either one that is made in good faith and based upon his legal rights, or else it is one that the Government ought not to pay. If it is a claim made in good faith then the officers of the Government ought not to have been prejudiced or influenced in relation to the acceptance of Mr. Walsh as a witness by the fact that he had made a claim of this kind and insisted upon its payment. Now, this letter sets forth and explains the grounds of the claim, and for that reason seems to me to be relevant.

Mr. MILLIKEN. Has not Mr. Walsh brought suit against the Government for this very claim?

The CHAIRMAN. I don't know.

Mr. MILLIKEN (to the witness). Have you not?

The WITNESS. Yes, sir. Mr. Bliss, himself, told me that this claim ought to be paid, although he swears here before this committee that the claim is unjust and that I am not entitled to it. Now, I am prepared to prove that Mr. Bliss sent me word that the claim was a proper one, and that it ought to be and would be paid.

Mr. MILLIKEN. Is the suit now pending?

The WITNESS. Yes, sir.

Mr. MILLIKEN. Well, is not the court the proper place for you to put in this testimony, and ought we to receive it here while your case is pending in court?

The WITNESS. I am not putting it in as testimony to establish my claim against the Government. I am offering it here in contradiction of certain testimony given by Mr. Bliss before this committee.

The CHAIRMAN. Refer to the testimony of Mr. Bliss to which you think this letter relates.

The WITNESS. If you choose we will hold this in abeyance until I come to it in regular course. Mr. Bliss swears that the claim was an improper one, but, as I have said, I am prepared to prove that he sent me word that it ought to be paid, and that he told me personally it ought to be paid. This being so I submit that in fairness and justice the rest of Mr. Bliss's testimony ought not to be deemed worthy of credit, and it is upon that point that I offer this letter, and not to affect my suit in any way. On page 222 Mr. Bliss, referring to this matter, says:

When he was declared a failing contractor his pay was stopped, and he now came in and claimed that, in some form, he had been made a failing contractor through the

unjust action of the Department, and, therefore, that he ought to be paid the balance due him, \$6,000 or \$8,000, I think it was, that he claimed, and they gave him the benefit of the doubt and paid him the money, and then supposed that his case was all settled. But pretty soon Mr. Walsh came around with a claim for a month's extra pay. When a contractor's contract is terminated by the Department, not for any fault of his own, he has a right under the law to a month's extra pay, and Walsh claimed that paying him this \$6,000 or \$8,000 on the ground that he had been made a failing contractor through some unjust action of the Department showed that he was not at fault and was a failing contractor through no fault of his own, and that, therefore, he was entitled to this month's extra pay, and he was very earnest to get it. On the other hand, the officers of the Department considered that when they had paid him that money there had been an agreement that that was to be the end of the matter, and the present Second Assistant Postmaster-General was very earnest in that view, and regarded the assertion of this later claim as an act of bad faith on the part of Mr. Walsh. I may say in passing that Mr. Walsh has since gone into the Court of Claims in an endeavor to establish that claim, and that the Government is fighting it there.

It was in the Court of Claims when Mr. Bliss sent me word it ought to be paid.

Q. What is the amount of that claim for the extra month's pay?—A. I think it is \$14,000.

Q. One-twelfth of \$105,000 a year?—A. No; that would be only eight or nine thousand dollars. There is so many changes on these routes that you cannot take the pay at any given time as a basis of such a calculation. I think the amount is about \$14,000, but I may be wrong. So much for that. There was Mr. Walsh in that position, with a claim upon the Government and making an allegation that he had paid money to Mr. Brady. His claim was that he had loaned money to Mr. Brady. The impression was very strong on my mind from the outset that if Walsh had had these money transactions with Brady they probably would turn out to have been of a different character from what he stated. He did not admit and would not admit at any time that he had had any *corrupt* dealings with Mr. Brady.

And yet Mr. Bliss undertakes to swear that I had.

The idea he gave out was that Brady had undertaken to blackmail him.

Of course Mr. Bliss would not believe that!

At all events he claimed that he had paid this money to Mr. Brady.

Q. Do you know whether that claim of Walsh's for the extra month's pay has ever been paid?—A. No, sir; it has never been paid; it is in litigation in the Court of Claims, and from what I learn of the evidence I apprehend that it never will be paid.

Q. Did Walsh demand that pay in consideration of testifying before the grand jury?—A. I cannot say as to that. I had nothing to do with it.

Now, I am prepared to prove, by Mr. Woodward, that Mr. Bliss *did* have to do with it, and that on his own motion; and, so far as I could understand, moved by a sense of justice, he sent me word by Mr. Woodward that the claim ought to be and would be paid. He afterwards said that he was "not sitting up o' nights to rectify the wrongs done Walsh, who had been abusing him in the newspapers," and that he "be blowed" if he was going to pay any more attention to the matter; so you see that, having angered a great man, he resolved to "sit down" upon me. He comes in now before your committee, and swears that the claim was unjust, and that he thought it ought not to be paid. Now, it is in that connection, and with reference to Mr. Bliss's testimony on that point, that I have offered this letter in evidence, and I offer further to prove by Mr. Woodward what I have already stated, that Mr. Bliss himself sent me word that the claim was just, and ought to be paid.

The CHAIRMAN. It seems to me to be admissible, in answer to Mr. Bliss's testimony on that point.

Mr. Van Alstyne appealed from the decision of the chair, and the decision was sustained.

The WITNESS. Now, Mr. Chairman, I believe you want me to speak of what took place before the third grand jury.

The CHAIRMAN. State when you next appeared before a grand jury in the District of Columbia.

The WITNESS. I was served with a subpoena some time in the early part of 1883, in January or February, I think.

Q. When did you appear before that grand jury?—A. As my memory serves me, it was in the month of March, 1883. I was also summoned to appear as a witness in the Brady-Dorsey case. It was the 6th of April.

Q. Who appeared before that grand jury to represent the United States?—A. W. W. Ker.

Q. To what cases did he call the attention of the grand jury, in your presence?—A. To the case of the Corpus Christi and San Antonio route; contractor, James B. Price.

Q. Were you called upon to give evidence in that case?—A. I was, sir.

Q. Did you submit the evidence that was in your possession, or that was within your knowledge in relation to that contract?—A. I submitted the same evidence on that occasion that I did on the two other occasions. I have the papers here, and I tender them to the committee.

By Mr. VAN ALSTYNE:

Q. Did you submit the same evidence that you had submitted on former occasions, without increase or diminution?—A. Yes, sir; here it is.

By the CHAIRMAN:

Q. Do you say that you presented to the third grand jury the same evidence that you had presented to the previous grand juries before which you had appeared?—A. The evidence that I had presented to the second grand jury particularly. The first grand jury before which I appeared considered that they got enough in about fifteen or twenty minutes, but the second went into the subject exhaustively. I presented to the third grand jury precisely the same evidence that I had presented to the second—before which Mr. Bliss had said that it was a serious matter to indict a United States Senator.

By Mr. VAN ALSTYNE:

Q. Was the same party or parties accused of criminal conduct in both instances?—A. The testimony related to the same parties, Brady, Price, and Kellogg, but Kellogg was the subject of investigation exclusively, in my mind, before the third grand jury; Brady and Price having been indicted previously.

Q. Please state what case was being investigated by that Mitchell grand jury when you appeared before them.—A. The Mitchell, or the first grand jury as we have designated it here, investigated the case against Brady, Price, and Kellogg.

Q. What presentments did they make?—A. They presented Brady and Price, and no others. They left Mr. Kellogg.

Q. The grand jury of which we are now speaking, the third—what presentments did they make?—A. Kellogg was indicted.

Q. I understand you to say that you presented precisely the same case to the third grand jury that you did to the second.—A. Precisely.

Q. And I understand you to say that when you appeared before the first grand jury you had in your possession the same papers that you produced before the third grand jury.—A. Yes, sir.

By Mr. VAN ALSTYNE:

Q. Were they in the grand jury room?—A. Just as they are before me here now. They were in the first grand-jury room just as they were in the others, but I think I read only a few papers before the first grand jury.

Q. Why did you not read the rest?—A. The jury did not want any more; the oral testimony was sufficient.

Q. Who interfered to prevent your reading the rest of the papers?—A. Oh, they all seemed to be satisfied. I said, "I have some papers here; shall I read them?" and they said, "No, no; that is enough."

The CHAIRMAN. I want to call the attention of the committee to the fact that at the time when this first grand jury met there is no question but that the statute of limitations had not run so as to affect the transaction in any light in which the court might view it.

By the CHAIRMAN:

Q. Was the meeting of the second grand jury within the period of the statute of limitations?—A. I think so. It was very close, though.

By Mr. VAN ALSTYNE:

Q. When you were before the first grand jury, who appeared there as an attorney to represent the Government?—A. Mr. George Bliss.

Q. Had you told him before that time the whole history of this transaction in substance as you have stated it here?—A. No, sir. I would not talk to the Government counsel. I did not conceive that that was my business.

Q. Then, so far as you know personally, Mr. Bliss was entirely ignorant of the connection of Kellogg with the case?—A. I cannot imagine that he was ignorant of it. Mr. MacVeagh was not ignorant of it.

By Mr. MILLIKEN:

Q. Do you know whether Bliss was ignorant of it or not?—A. I do not *know* whether he was or not.

By the CHAIRMAN:

Q. Previous to the time when you appeared before the first grand jury had you made a statement of the substance of your testimony to any agent or officer of the Government, to Mr. Woodward, Mr. Merrick, or any one else charged with the prosecutions?—A. Yes, sir; I had, incidentally, to Mr. Gibson. In speaking to him in relation to the testimony that I expected to produce in my civil action against Brady, I said that Mr. Kellogg was a competent witness in my behalf if he would only testify; that he was aware of transactions between Brady and myself, that he knew—indeed, that he had told me that Brady had stated to him that he, Brady, owed me money, and I said that if I could get Kellogg's and Price's testimony, my judgment was that I would establish my case very thoroughly.

By Mr. FYAN:

Q. At the time the second grand jury convened Mr. Bliss knew all the facts in the case with reference to Mr. Kellogg?—A. He knew them in the first grand jury room. He knew the Kellogg case just as well as he knew that there was testimony against Brady and Price.

By the CHAIRMAN:

Q. Was there any other witness than yourself in reference to these cases before the third grand jury by which the indictment was found?—A. Not that I know of.

Q. No other witness was examined in your presence?—A. No, sir. I did hear that Price was a witness.

Q. Was there anything said in the presence of the grand jury while you were on the witness stand with regard to the dates of the transaction, so far as the indictment was concerned?

The WITNESS. Do you mean as to my knowledge of the dates?

The CHAIRMAN. Yes.

A. Yes, sir; I testified, so far as I had knowledge, in relation to the dates.

Q. Did you testify before the grand jury as to the dates of the several transactions that you had had, just as they had taken place?—A. Yes, sir.

By Mr. VAN ALSTYNE:

Q. Transactions with whom?—A. With the drafts.

Q. What drafts?—A. Those postal drafts that were drawn by Price and given to Kellogg for his and Brady's account. Those drafts were turned over to me as a banker for collection. They came due from quarter to quarter, \$3,000 each quarter, and as they came due I collected them.

Q. The dates of those collections were the dates to which you testified?—A. Those were the dates.

By the CHAIRMAN:

Q. You testified according as the transactions took place, I suppose?—A. Precisely. The checks and drafts were there.

Q. Do you know whether the dates that you testified to were the dates that were put into the indictment?—A. Really, Mr. Chairman, I never felt that I had to read that indictment, and I have never looked at it or paid any attention to it.

By Mr. MILLIKEN:

Q. Who drew that indictment?—A. My impression is that it was the joint production of Mr. Merrick and Mr. Ker. I know I heard them both discussing the very point that the judge passed upon the other day. I heard Mr. Merrick maintain that the successive payments kept the case alive. In talking to Mr. Merrick a few days ago I said that I had heard a great deal of abuse vented upon the unfortunate Ker on the ground of his incapacity to draw an indictment, and I told Mr. Merrick that in justice to Ker I would say that in my opinion that indictment was the joint production of his, Merrick's mind, and Ker's. Mr. Merrick said, "You state the fact, Mr. Walsh. The indictment is a perfectly good one." I am stating this here now in justice to poor Ker. Ker is deaf, and he does not hear all these things, but he is a very good-hearted fellow, and I think he meant to do his duty to the best of his ability.

By the CHAIRMAN:

Q. Mr. Ker heard enough to know what you testified to before the grand jury, I suppose?—A. Oh, I talked very loud there, for his benefit. I talked very loud in the grand jury-room.

By Mr. VAN ALSTYNE:

Q. You have testified that you gave evidence before two grand juries in regard to certain drafts; have you got those drafts?—A. Those are in the Government archives. I have got all that belong to me.

Q. What are they?—A. They are checks to Kellogg, letters from Kellogg, letters from Price, telegrams, &c.

Q. Do those relate to these matters that you have been talking about?
—A. Yes, sir.

Mr. VAN ALSTYNE. Now, I offer those checks in evidence.

(Mr. Hemphill objected to the reception of the checks, and upon a vote they were excluded by the committee.)

The WITNESS. That finishes the record for me.

The CHAIRMAN. Did you appear in Washington for the purpose of testifying before the court at the recent trial?

The WITNESS. You mean the trial of the United States *vs.* Kellogg?

The CHAIRMAN. Yes.

A. Yes, sir; I did.

Q. State to the committee why you declined to appear at the December term of the court when the case was continued on account of your business.—A. I can do that best by reading a letter which I addressed to the President on the 3d of November, 1883.

Q. Did that letter embody your reasons for declining to appear at that time?—A. It did.

(Objection being made to receiving this letter in evidence, the committee, on motion of Mr. Fyan, resolved to consider the question of the admissibility of this letter in connection with the same question as to the other letters and papers offered.)

Q. State whether any efforts were made by you to avoid the service of process upon you to appear at that trial.—A. There were no efforts to avoid. I did not feel like going around and looking for deputy marshals, though; it did not seem to be any part of my business.

Q. Were you in the city of New York any part of the time?—A. Nearly all the time.

Q. Were you in a position to be accessible to those who were charged with the duty of serving the process of the court?—A. Undoubtedly, if they had known me. I have no doubt that if the gentlemen engaged in the business of process serving were a different grade of men from what they usually are, they would have found me, but inasmuch as that class of men generally resort to beer saloons and other such places, I fancy they would not be very likely to find me.

By Mr. VAN ALSTYNE:

Q. Were you on the public streets?—A. Undoubtedly. I had my being; I existed; I rode down on an elevated train with Mr. George Bliss one morning.

Q. Did you recognize Mr. Bliss?—A. Yes, sir.

Q. Have you any doubt that he recognized you that day?—A. Well, I don't know about that. I cannot say, you know, what passes in another man's mind.

Q. Were you disguised in your apparel?—A. There was no disguise, sir.

Q. When was this?—A. It was some time in March, I think. I believe the World made some allusion to it.

Q. It was after December, at all events?—A. Oh, yes; it was at a time when Mr. Bliss said that he had some sort of process for an "audacious" witness—whatever that meant under the Maryland statute.

By Mr. MILLIKEN:

Q. During what period was it that the Government wanted you as a witness and could not get you?—A. Oh, really, I could not tell you that.

By the CHAIRMAN :

Q. Your presence was desired at the December term of the court?—

A. Yes, sir; the case was fixed for December 10, 1883. I should think that by that time they wanted me. Mr. Merrick and Mr. Ker came to New York to see me. First came Ker; he went to my attorney, Judge Grandin, and told him that there was a wild desire on the part of the Government to interview me; that the case of Kellogg was coming up on December 10, and hence the counsel for the Government would like to confer with me. I told Mr. Grandin that I had no desire to confer with the representatives of the Government; that I had not found any evidence of a desire on their part to do what was even half-way decent in my case; and I told him, generally, that I did not want to see them. He said, "All right, I will tell them so." Mr. Merrick might have met me on the street at that time; it was just a matter of chance, his failing to see me. Mr. Ker came to New York; then came Mr. Merrick, a gentlemen for whom I have a very high regard, but I also declined to see him. He, with others, had been rather lax, as I thought, in according to me what I believed I was entitled to in the matter of protection as a witness, and after the Merrick attempt to see me, I then wrote this letter to the President. Although these gentlemen wanted to have interviews with me, and I was not at all unwilling to do my duty in the matter, I knew that Mr. Merrick was powerless, and that it was useless to have any more promises from him because he could not fulfill them, being overruled by Mr. Bliss. I saw that as soon as the question of professional etiquette came up the professional garb was taken off the hook, and they dressed themselves in it and left Walsh out in the open field, and I said to myself, "Somebody else must do some fighting; this shall not be going on *sub rosa*;" so I wrote this letter to the President. Receiving no response, I came to the conclusion that there was to be a continuation of the treatment that I had received in the past, and I determined that I would not appear unless they got service on me, and that if they did get service on me I would come to Washington and tell the court that I would not testify.

By Mr. MILLIKIN :

Q. Did you expect an answer to the letter which you wrote to the President?—A. I did. I think it was due me. I have sacrificed a great deal for the Government.

Q. Where were you living at the time when they wanted to make service on you?—A. In the city of New York.

Q. Doing business there?—A. Yes, sir.

Q. Were you on the streets every day?—A. Yes, sir; just as much as I am ever on the street. I am not gregarious in my habits. I don't go with flocks at any time.

By Mr. STEWART :

Q. Come right down to the point and be perfectly square. I suppose there is not any doubt that you concealed your address as far as you could, so that they could not find you?—A. I will be perfectly frank with you. I would not go to the post-office, because I knew that there was a subpœna there for me. Neither would I go up to the marshal's office and say, "Here is Walsh; have you anything here for him?"

Q. Your letters were addressed in the care of somebody else, were they not?—A. No, sir. They were addressed John A. Walsh, *poste restante*; my usual address. I sent somebody for them usually.

Q. Somebody that you could trust?—A. Well, no; not particularly

I did not emphasize that. But I knew that if I went there and asked if they had anything for me they would say yes, and would probably hand me a subpoena.

By Mr. MILLIKEN:

Q. Then you *were* evading subpoena?—A. Not in that sense.

Q. If you were not evading the service of the subpoena why were you taking all those precautions?—A. Well, perhaps it was not agreeable for me to go to the post-office. I frequently sent to the post-office for my mail; in fact, that is my custom.

Q. If it is your custom why do you mention it here in response to a question asked you about evading a subpoena?—A. I did that because I wanted to answer as frankly as Governor Stewart asked me the question. I would not go to the post-office, if you call that evading service.

Q. Why would you not go to the post-office?—A. Because I thought they might give me a subpoena.

By Mr. VAN ALSTYNE:

Q. Do you mean anything further than this: that you did not intend to submit yourself as a witness to the Government unless you had those assurances for which you had asked?—A. I would have gone to jail first. I made up my mind that I would not testify with the representatives of the Government conspiring against me.

Q. You mean to say further that your habits in New York, and that which you did there, did not conceal you to the extent that an ordinary man in pursuit of you could not have found you?—A. I could easily have been found had I been known to the class of people who usually serve subpoenas.

By the CHAIRMAN:

Q. Did you ride down on the elevated train from day to day to an office down town?—A. Yes, sir. Whenever my inclination prompted me. I often walked down. I sometimes walk, sometimes ride on the surface road, and sometimes on the elevated. On the occasion referred to here I was at the corner of Twenty-sixth street and Sixth avenue, and I got on the elevated road, in the last car in the train. Directly I heard a gentleman say, "Why, how do you do?" I recognized Mr. Bliss's voice, and he passed right along by me and took a seat beside a gentleman nearly opposite to me.

By Mr. VAN ALSTYNE:

Q. Did you send the same person to the post-office for your letters from day to day, or were they brought to you by different persons?—A. Different persons.

Q. Did Mr. Gibson get them sometimes?—A. Mr. Gibson got them once or twice.

Q. Did Mr. Bliss see you on that car on the elevated road?—A. I will not undertake to say that Mr. Bliss saw me.

By the CHAIRMAN:

Q. At this time, when you sat in an elevated car opposite Mr. Bliss, had you and he seen each other enough to enable him to know you personally?—A. Oh, yes.

Q. Did he know you?—A. Oh, yes, Mr. Bliss knew me.

Q. You did not accost him?—A. No, sir. Mr. Milliken might consider *that* an evasion of service. I did not go up to him and say, "Bliss, here I am, have you a subpoena in your pocket?" I did not do that.

Q. You may state the circumstances under which you did appear here at the recent trial.—A. I had read in the public prints that on the 29th of March the case of the United States *vs.* Kellogg had been called in the criminal court of the District of Columbia, and that Mr. Merrick, representing the United States, had taken occasion to make some remarks in relation to statements made by me to this committee.

On the 24th of March, 1884, I had addressed to this committee a communication in which I had gone on to explain why I refused to appear before the committee. Mr. Springer had expressed a desire to hear me testify. That was conveyed to me through Mr. Gibson. I felt that an answer was necessary, and I set forth in the letter to your committee the reasons why I did not think that I could appear and testify here. When the case against Kellogg was called on the 29th of March, counsel for Mr. Kellogg read this letter of mine of March 24 to this committee—read it in open court. Its reading called from Mr. Merrick certain denials. He said that he had never told me that the Secretary of the Navy, William E. Chandler, had allowed Bliss and Kellogg to meet at his, Chandler's, house. That was one of the allegations in my letter. Mr. Merrick said further that he had never said that Mr. Bliss had betrayed the interests of the Government—that he had never said that to me, that that language was never used by him. He also said (I quote from one of the counsel for Kellogg) that he did not know where my letters were written from, but, to use the language of the counsel on the other side, perhaps they were written from a lunatic asylum. On that occasion, Mr. Merrick said further:

We do not need this witness, Walsh. It is not Walsh that we need so much as it is the important papers that he has in his possession.

Of course, it is unnecessary for me to reiterate here that Mr. Merrick did tell me, as accounting for the escape of Kellogg before the second grand jury, that Mr. Bliss and Mr. Kellogg did meet at Mr. Chandler's house. It is very unfortunate that there should be such a difference of recollection between Mr. Merrick and myself, but, unhappily, we have to join issue on this point.

I regret very much that Mr. Merrick's memory is so defective. He did say that Mr. Bliss had betrayed the interests of the Government, and I submit that he agreed substantially to that proposition in the correspondence that passed between us in relation to my appearing before the third grand jury. As to the suggestion about a lunatic asylum, I presume that was metaphoric. We will not discuss that, but I presume that I am perfectly *composed*. As to the proposition that papers were all they wanted, I said this: "I am about to go to Europe; I shall sail from Quebec on the 10th of May; I shall go to Montreal, in the course of business (a place I frequently visit), and from there I will offer the President the papers; because I am not willing to take any part of the responsibility for a failure of justice, and inasmuch as the Government has been kind enough, through its very learned and very able and very expensive counsel, to allow a loop-hole for an important witness, I think I ought to reciprocate." Hence I did tender the papers to the President, provided he would give me a receipt for them and a promise to return them, inasmuch as they were of very great importance to me in my pending civil action against Mr. Brady, involving some \$34,000 or \$35,000. In response to that the Attorney-General, I believe, was directed to communicate with me. However, with the permission of the committee I will read the correspondence that passed between the Attorney-General and myself. I wrote to the President, as I have stated,

and I received a reply from him—in effect it was from the President—the first one that he had ever accorded me. I don't know why he answered that letter any more than the other three, but he appears to have thought it was time to accord me some consideration. In reply to my letter to the President I received the following:

DEPARTMENT OF JUSTICE.
Washington, April 18, 1884.

SIR: The President has referred to me, for such action as may be proper, your letter dated Montreal, April 16, 1884, in which you refer to certain papers in your possession that are desired by the Government in the prosecution of the case against William Pitt Kellogg, and which you say you are willing to surrender to an accredited agent of the President. By his direction I have authorized Mr. Brewster Cameron to go forthwith to St. Lawrence Hall, Canada, and to receipt in the name of the President for the papers referred to in your letter; with the understanding that such papers be returned to you intact after the trial of Mr. Kellogg.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

JOHN A. WALSH, Esq.,
St. Lawrence Hall, Montreal, Canada.

Mr. Brewster Cameron and Mr. Ker came to Montreal. They reached there I think on Saturday night. I was not in the hotel when they arrived. I came in about 12 o'clock. Reaching my room I found this letter:

MONTREAL, April 19, 1884.

SIR: The President of the United States has received your letter dated Montreal, April 16, 1884, wherein you state that if a person is sent to you with authority to receipt in the name of the President for certain important papers in the case of the United States *vs.* William Pitt Kellogg, and the assurance is given to you that the papers will be returned to you intact after the trial, that you will turn said papers over to the Government for use in the trial of that case. I have been authorized and directed to come to Montreal to receipt for the papers, receive them from you and give you the assurance desired as to their return. I have just arrived at St. Lawrence Hall [9 p. m.]. Will you be kind enough to fix the earliest possible moment for an interview with me, as the case will be called for trial on Monday, and it is important I should not be detained here. Mr. Ker, special counsel for the Government in the case, has accompanied me to obtain from you any explanation he may need for efficient use of the papers at the trial. Will it be convenient for you to see him when you hand the papers to me, or afterwards:

Very respectfully,

BREWSTER CAMERON.

JOHN A. WALSH, Esq.,
St. Lawrence Hall, Montreal, Canada.

I immediately went down to the office and asked what rooms those gentlemen occupied. I was told. I sent up my card. It was then 12 o'clock or a little past 12 o'clock at night. I then met Mr. Cameron for the first time. Mr. Ker I had met before. Ker at first did not come into the room although their rooms communicated. Mr. Cameron addressed himself to me saying, "I suppose you have read my note. Can we have the papers?" I said, "Yes; you can have the papers. I will turn them over to you now." He said, "Well, I would not like to take them now, because I have no place to put them." I said, "You can put them in the hotel safe, where I keep them." "No," said he, "you had better keep them for the present." I said, "Where is Ker?" He heard me mention his name and he came in and I said to him, "What is this? Are you assuming the mysterious airs of the doges of Venice?" He said, "I did not know whether you would want to see me or not." "Oh," said I, "I am very glad to see you." He sat down and Mr. Brewster Cameron went on to deliver some oral

messages that the Attorney-General had sent me. He said that I had done the Attorney-General great injustice ; that the Attorney-General had never spoken of me as a "fellow" in court, as I imagined he had. I told him who my informant was, and we went on discussing the matter for some time, Mr. Cameron asserting that Mr. Brewster had been very profuse in his verbal messages to me ; that he did not have time to write them, because my letter was presented to him at the Cabinet meeting at 12 o'clock, and he did not get away from the meeting until 3, and he wanted Ker and Cameron to leave on the 4 o'clock train for Montreal.

"Now," said Mr. Cameron, "the Attorney-General is absolutely desirous of doing his duty to the fullest extent, and you have done him great injustice, under a misapprehension of the facts. The Attorney-General desired me to say that to you, and to say further that, as an American citizen, you owed a duty to the Government in this matter, and that you ought to return ; that the papers will be entirely useless to the Government unless you return, and, taking all things into consideration, he thinks you ought to come back." I said, "Mr. Cameron, there is no hesitation on my part whenever I am treated with decency, or whenever I see the slightest evidence of a disposition to treat me decently, whenever I have even the slightest reason to believe that this Administration means to accord me any sort of recognition, I am perfectly clear as to what my duty is. My duty clearly and unmistakably is to return. You can telegraph the Attorney-General that I shall respond to his request. You may telegraph him, and I will telegraph him myself also." Mr. Cameron said, "The first train away from here is on Monday morning, I believe?" I said, "Yes." "Will you go with us?" said he. "No," said I, "I won't go with you ; I do not want to travel with Government people ; I do not want to have any sort of appearance that you gentlemen have persuaded me to return, that I have been overcome by any sort of argument or persuasion, and therefore I do not want you to travel with me."

Mr. Cameron saw the force of that objection and he said, "We will leave to-morrow night by the Delaware and Hudson road ; when will you leave?" I said, "I will leave in the evening, on the Vermont Central." We left in pursuance of that arrangement, but a washout occurred on the Delaware and Hudson road which delayed the train on that road and also the Vermont Central train, and which ultimately resulted in bringing Mr. Cameron, Mr. Ker, and myself together next morning. You see the fates were against me, and consequently I did come with them as far as New York ; that is, I traveled with them from early morning until we reached New York. I left Montreal by the evening train, and on waking up next morning to go out to breakfast, whom should I see but Ker, looking exceedingly wise, and crawling out of an upper berth in the most ungainly manner. I said "Egad! There is the apparition of Ker! Where do these fellows come from anyway?" Ker, when he saw me, seemed to be very much embarrassed. [Laughter.] He is an exceedingly juvenile man in many of his ways of thinking, and he seemed to be very much *distrain*. Said he, "Walsh, I hope you won't think that we did this on purpose?" [Laughter.] "Oh," said I, "that is too absurd ; do not suppose that for a moment." He referred to the matter two or three times, and I did my best to relieve his mind. I said, "I don't deal with people in that way. Get rid of the idea ; get rid of it. When we reach New York I will get rid of you."

When we reached New York Mr. Cameron asked me, "What train are you going to take?" "Well," said I, "I would take the 3.45 train ;

I usually travel on that train; but I suppose you are going to take that, so I will take the 1 o'clock train, which is slower. I do not want to travel on the same train with you, because if I did, when we got to Washington the newspaper men—that is, the *bad* newspaper men [laughter]—would say that I was brought back in charge of Cameron and Ker." Indeed, they have said that, notwithstanding all my precautions; so that there is no use in trying to avoid the inevitable. Well, Mr. Cameron and Mr. Ker said, "No, Walsh, we won't subject you to that inconvenience; you take the 3.45 train and we will take the 1 o'clock train." I arrived in Washington, and next day the Attorney-General sent for me, and I wish to say for him that his explanation of his conduct in relation to these cases was most ample; in a word, he did me that justice which had been denied to me so long through prejudice which had been excited against me, and which the Attorney-General informed me was the result of Mr. Bliss's studied efforts in that direction. That terminates that phase of the matter.

I was told by a friend of mine that when it was learned that I was coming back one of the counsel for Kellogg said, "I notice that Walsh is going to return." "Yes," said my friend, "I see that he is going to return." "Well, then," said the other, "I suppose the Government is going to pay him that \$8,500 that it owes him, and that is the reason that he is coming back." Now, of course, we cannot keep people from suspecting; that is part of the worst side of human nature; but I assure you, gentlemen, there was no reference made to anything of that kind. I give Mr. Cameron and Mr. Ker credit for having refrained from any such suggestion, because if they had mentioned it I do not think I would have come. Punic faith is all that the Government has ever accorded to me so far, and hence I would not ask them to go on record again. It would be too painful to put them on record all along the line.

Q. Then there was nothing said to you in reference to the payment of your claim as an inducement for you to come back?—A. Nothing whatever. Nothing of that kind was required. Mr. Brewster's apology and his explanation of his attitude in this matter was all that was necessary.

Q. And that was given you by Mr. Brewster Cameron, as you have stated?—A. Yes, sir; by Mr. Cameron, and very much more at length by Mr. Brewster himself when I saw him.

By Mr. FYAN:

Q. Did you send a telegram announcing that you were coming back?—A. Yes, sir.

Q. Did you receive any answer?—A. No, sir; I received no answer. I merely telegraphed "I will return," or something to that effect.

By the CHAIRMAN:

Q. You may state what was said between you and the Attorney-General in regard to his former treatment of you—what explanation he gave.

Mr. STEWART. I object to that.

The WITNESS. I would rather not state that.

The CHAIRMAN. I mean only in so far as it related to the conduct of Mr. George Bliss.

The WITNESS. I have stated that part of it.

Mr. STEWART (to the chairman). You had better ask the Attorney-General about that conversation.

The WITNESS. Yes; I would rather you would do that. There were many things said that I should not care to state here.

Now, here is another letter, a copy of which was given me. It was addressed to Mr. Brewster Cameron by the Attorney-General, and is as follows:

DEPARTMENT OF JUSTICE,
Washington, April 18, 1884.

SIR: Since writing Mr. Walsh to-day, by the direction of the President, requesting him to deliver you certain papers desired by the Government in the case against William Pitt Kellogg, I have read more carefully his letter to the President, dated Montreal, April 16, 1884. Referring to his statement that I said I did not need him, if it was so reported to him, it is not so. The other counsel said the material part of his testimony would be fortified by documents that were essential, but the presence of Mr. Walsh was required. [The Attorney-General, you see, was kind enough to try to explain away Mr. Merrick's unhappy remark in court, that my presence was not necessary. He bent before the wind at that time; the pressure was too great for him; Atlas became sick.] We needed him here. I wish you to say to Mr. Walsh now that I wish his presence here, and I call upon him in the most positive and most emphatic way to come at once with you and Mr. Ker, and to be present at the trial of the case, and testify to all the facts within his knowledge, so that there may not be any complaint of the failure of justice by reason of his absence.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General U. S.

By the CHAIRMAN:

Q. Were you present in court at the proceedings on the trial the other day in accordance with that request?—A. Yes, sir; I was there. I was in the district attorney's office. The atmosphere of that court is not very enjoyable. The windows are kept closed and the mob crowd in there so that the atmosphere is not nice.

Q. You were not in the court-room, but you were accessible?—A. Oh, yes, sir; I was very accessible.

Q. You were not evading process?—A. Oh, no. I never have *evaded* any process.

Q. You were not called upon as a witness, though?—A. I was not.

By Mr. MILLIKEN:

Q. Could the Government, if it had made proper efforts to do so, have found you in New York and have summoned you at any time within the last six months prior to this meeting that you had with Messrs. Cameron and Ker at Montreal?—A. I can only give you my impression on that point. My own impression is that Mr. Bliss stated the truth when he said here that they had done their best to find me. But you must remember the media that they would naturally work through. I do not suppose I was known to many men of the class that would be naturally selected to serve subpoenas. I have no doubt that I passed and repassed men who had subpoenas for me in their possession. Really, to be just, I must say that I do not think there was any lack of effort to find me.

By Mr. HEMPHILL:

Q. Do you know what efforts they did make or do you simply infer?—A. Oh, I infer that; of course I do not *know*. Mr. Brewster told me they had made earnest efforts, and if I had had any doubt about it before that would settle the matter in my mind. He complimented me upon my ability in keeping out of the way. I told him it was not so much a case of ability in keeping out of the way as it was a case of defective eye-sight on the part of his subordinates; which he, of course, accepted.

Q. Have you read the testimony of Mr. George Bliss before this committee?—A. Yes, sir; I have read it with a good deal of feeling. I have been very much amused by portions of it.

Q. Is there any part of that testimony to which you desire to reply?—
 A. Yes; I would like to make some pleasant allusions to a few slight contradictions into which Mr. Bliss has fallen; in other words, I think we shall proceed to demolish Mr. Bliss. It is not hard to do, for he is a most unhappy witness. It seems to me that a gentleman who has had so much business in Albany ought to be a better witness.

Examination suspended. Adjourned.

WASHINGTON, D. C., *May* 14, 1884.

JOHN A. WALSH recalled and further examined.

By the CHAIRMAN:

Question. Please proceed with your statement. When the committee adjourned you were about to refer further to the testimony given here by Mr. George Bliss.—Answer. Yes, sir. On page 206 of the record Mr. Bliss refers to me in these words:

With Mr. Walsh I had comparatively little to do. He early conceived a hostility to me.

It is unnecessary for me to say that I never conceived any hostility to Mr. Bliss; I never felt that he had incurred any hostility on my part. True, he went into print at a very early date to discredit me, as I have already shown the committee. I felt, however, that that was probably owing to his associations and in accordance with the measurement of men which he had been accustomed to make, owing to his long association with "practical" politicians. I did not know but what it was natural enough and in accordance with the average human nature with which he was accustomed to associate that he should form such an estimate of me.

As I have already stated, he apologized later on for what he had said about me, but, as I have also stated, he did not make the apology quite so public as he made the insinuation. All through Mr. Bliss's testimony I find allusions to myself as being a man who, if ever the necessities of the case should compel me to be the sole witness for the Government, might prove unreliable in this, that I would absent myself. He calculated that I would be paid by the defendant, Brady. I having a suit against General Brady for \$34,000 or \$35,000, Mr. Bliss calculated that Mr. Brady might pay me, and that I would then cease to have any sort of interest in this matter. From Mr. Bliss's stand-point I think that, perhaps, was also a natural judgment, and I presume that the best way I can proceed to disprove and overthrow any such theory or belief in the mind of any person is to recite here the numerous efforts that that were made to pay me my money. Some portions of the statement I would omit and make no allusion to, but for the appearance of an interview in this morning's paper in which Mr. Kellogg makes an attack upon me.

I was offered my money in whole or in part no less than five times during the pendency of the Government's criminal prosecutions against Brady, Dorsey, and others.

By Mr. FVAN:

Q. By whom were you offered your money?—A. By Mr. Brady at times and his representatives.

By the CHAIRMAN:

Q. Who were those representatives?—A. I will come to that. The first time an overture was made to pay me was when I had come here in response to a subpoena to appear before the second grand jury. I had filed my civil action against Mr. Brady in June, 1881, long prior to the indictments had against Brady and Dorsey. Of the two counsel whom I had employed in my action against General Brady one was Mr. L. G. Hine, of this city, with whom was associated later Mr. W. A. Cook. I paid Mr. Cook a retainer. I showed Mr. Cook my papers. I told Mr. Cook some of my case—I did not tell him too much. In the mean time, as I have said, I was subpoenaed to appear before the second grand jury. Mr. Cook came to me in the court-room while I was waiting to be called before the grand jury and suggested to me that Mr. Kellogg was willing to do what was “right in the matter.” He spoke in a Delphic way, looked mysterious, looked at the ceiling, looked around in every direction, and said to me, “You see which way your interest is.” I did not make any response further than to say that perhaps I did not know enough to understand which way my interest was—didn’t have sense enough.

Q. At what time was this?—A. This was while I was here waiting to go before the second grand jury. Some days intervened before I was called, and during that time, of course, it got pretty generally known what my business was here, and that Mr. Merrick had forced the reconvening of the Hutchinson grand jury to take up the Kellogg case. Hence there was a pooling of the issues of the defendants in court and the defendants that ought to have been in court, among whom, of course, was Kellogg. Mr. A. M. Gibson called upon me and said that I could get one-half of my money which I claimed from Brady. I asked him how. He said that Kellogg would pay one-half of it if I would not testify. I don’t think that Mr. Gibson put it in just that way, but he said, “You will get one-half your money; Kellogg realizes that Brady owes you the money, and he (Kellogg) will pay one-half of it.” I said, “Mr. Gibson, Mr. Kellogg does not owe me any money. I don’t care anything about it. That is a mistake. Whom do you come from?” Mr. Gibson replied, “Mr. Cook told me to come to you.” “All right,” said I, “that settles it; I don’t want it. Mr. Brady owes me some money, but Mr. Kellogg does not.”

Then, about the same time, or perhaps a little later, there came here from Chicago Mr. Charles W. Wills, Mr. Kellogg’s brother-in-law, a most estimable friend of mine, a man for whom I have even more than regard; I esteem him more than any other acquaintance that I have ever had. Mr. Wills said to me, “John, I have been telegraphed for to come here from Chicago. I had just got up from Louisiana (he was engaged in sugar planting); my health is very bad, and I came up to Chicago, and I had no sooner got there than I received a telegram stating that you were here making a good deal of a row, and asking me to come on. I came on and Kellogg has talked with me. Of course, with his usual indisposition to deal frankly, he don’t tell the truth. He is in great trouble and greatly distressed, and he thought that if I could be brought here and could see you, I could induce you to desist. Now,” said Mr. Wills, “I will state the case frankly to you. I appeal to you, by reason of our friendship and owing to my relation to Kellogg, to tell me is there anything that you can with propriety do to let up.” I said, “Charley, I have nothing in the world to do but to do my duty in the matter,” and I went on and rehearsed the case to him. After listening, he said, “I am very sorry to know that the matter has reached that

condition. Of course you must understand that I cannot help feeling for Kellogg. Of course it is natural that I should feel for him, and, if there is any way of coming to a settlement, Kellogg will pay one-half the money." I said to him, "Wills, it is not a question of money; it has got above and beyond that. I cannot occupy any doubtful attitude in this matter." We dined together. I don't know but we dined together every day he was here. We talked constantly about the matter, Mr. Wills urging me to do something. He was satisfied that Kellogg was guilty. He said that Kellogg denied it, but that he (Wills) knew that he was guilty, because he said, "Mr. Kellogg is a man that will never pay any money unless he is *in extremis*, and when I found that he was ready to pay you money, I knew, without any remarks from him, where he was."

As the matter progressed Mr. Wills became considerably worked up. He said that the way out of this matter seemed so easy that he didn't see why I would not make a settlement, and he said, "Really, I have come to the conclusion that you are angry or annoyed." Said I, "I don't feel particularly annoyed about anything. The abuse of these men is something that every man must be prepared for; I have had that for a long time; there have been (in the language of Mr. Arnold) many delicate amenities showered on me, but I pay no attention to that particularly." "Well," said Mr. Wills, "if you want to indict Kellogg, it is not possible for you to do it; you might as well make up your mind that you can't do it. This Administration is going to stand by him. They are all going to stand by Kellogg to the extreme end. Now you know what a power you are warring against. You know that you cannot succeed in any such fight as that, and that you are bound to go down. Now, as a friend of yours, and a well-wisher, and a man that is speaking it heartily, I tell you frankly that they will crush you in this fight." I said, "All right, let the crushing go on; I can't do anything." Well, Mr. Wills bade me good-bye, saying, "For the first time since I have known you, I leave you wishing you to fail." I said, "Wills, I will join you in that wish; in deference to you, I hope I shall fail." I mention this to show the relations between us. Wills left. I went before the grand jury. Ah! I am getting a little ahead of my story. Mr. Wills before he left said to me, "There is a studied disposition to protect Kellogg. Mr. George Bliss will do all he can to protect him. If you are at all desirous to do it, it will be made very easy for you, for the reason that Mr. Bliss is posted and he is going to stand by Kellogg. They will give you Brady's scalp if you want it to propitiate you. There is no disposition to save Brady. The understanding is that your animus in this matter, if you have any, is against Brady; they will give you Brady." I said, "I don't want Brady; I don't want anybody. I simply want to tell the truth, Charley."

I went before the grand jury, and in view of what my friend Wills had told me, I looked at the course of the proceedings there with a good deal of curiosity. Mr. Bliss's examination commenced haltingly. I could see that he had been told that I was going to omit Kellogg's name. He was feeling the ground tenderly and cautiously. As it dawned upon him that there was no disposition on my part to screen anybody, he assumed the role of a good examiner. He asked me all the questions; he drew the matter out very fully. He did all the reading of the papers. Two or three of the jurors may have looked at them in a perfunctory way, but Mr. Bliss read them. As he went along he seemed to be annoyed at me, and the thing ended by his making the remark which I have already quoted in my testimony. Afterwards,

when he was interviewed about it, he thought he would "hedge" (in the vernacular of the racing men) by saying that if he had been a member of that grand jury he would have voted to indict.

I think this offer that I have just described was the second one that was made to pay me. The first one, I think, was that which was made by Senator Dorsey at the Gilsey House in New York—yes, the Dorsey incident was the first, as I now recollect. I had taken out an attachment against Mr. Brady's property in New York. I had attempted to discover some property in the hands of Hatch & Foote, of New York, and the Telephone Company, but I had not discovered any.

The deputy sheriff wrote to my attorneys, Ira Shafer and E. H. Grandin, that he would like to see Mr. Walsh. My recollection is that the name of the deputy was Shelley. I did not know him. My attorney said to me, "You had better go and see what Shelley wants." I said I would, and I went to see Shelley. He was a very pleasant gentleman. He said, "Mr. Walsh, I thought I would convey to you a message which Senator Dorsey gave me for you. I have just been having some business with him touching some property of his in the hands of the people of the hotel (the Gilsey House), and in the course of the proceedings I became acquainted with him; and, speaking of your attachment against Brady, he said that he was of the opinion that if he could see you, he could adjust the differences between you and Mr. Brady. Now, don't you think you had better go and see him?" I said, "Yes, perhaps I had." I went up to the Gilsey House and saw Mr. Dorsey. Mr. Dorsey intimated that if I would settle for \$28,000, there would be no difficulty about the matter. I told him that was not the amount of the indebtedness and I would not settle for that amount, and I advised Mr. Dorsey not to have anything to do with the matter. My acquaintance with him was merely casual, and I advised him not to have anything to do with this business. He said that he was moved to do it because Brady seemed to be in such a state of anguish that he thought he had better make the suggestion, but if I didn't want to talk about it, why, all right. I said I did not want to talk about it.

Another proposition that was made to me was this: I was telegraphed for by my attorney, Mr. L. G. Hine—

By the CHAIRMAN:

Q. (Interposing.) Was this suggestion made by Dorsey coupled with a proposition and condition that you should not appear as a witness?—
A. No, sir.

Q. Did he suggest in any way that the matter should be arranged on that basis?—A. Well, perhaps that might go without saying.

Q. Did you understand that that was one of the objects of the proposition?—A. Of course that would be my understanding, undoubtedly. I did not suppose there was any wild desire to pay me money unless I would consent to go away. I had not been able to make Brady see the propriety of paying me up to that time.

I was going on to mention another occasion when an offer was made to me. I received a telegram from my attorney here, Mr. L. G. Hine, to come over to Washington; that he thought there could be a settlement effected; that Mr. Jere. Wilson had been to see him and advised me to come. I didn't think that there was much in that. It was winter, and I was not feeling very well, and I telegraphed Mr. Kellogg—I knew that he was cognizant of the efforts to compromise, and I thought I would telegraph directly to him to see what he thought of it, Jere. Wilson being his attorney and his personal friend. I telegraphed Mr.

Kellogg and he replied that Wilson said to come. I came. I went to see Mr. Wilson at his office. Mr. Wilson very pleasantly referred to the differences between Mr. Brady and myself, and suggested that it would perhaps be well to settle. I said yes; that I thought it would be very well to settle; that I was very desirous of a settlement. "Well," said Mr. Wilson, "General Brady says he don't owe you that much." "Then," said I, "if he does not owe me that much, perhaps he can show me wherein I have made errors, and if he does that, I will correct them with pleasure." "Well," said Mr. Wilson, "I don't know that it is that." "Then," said I, "what is it?" Mr. Wilson said, "Well, I don't think he will pay that much." Said I, "Mr. Wilson, do you say that General Brady is not able to pay it? Is that the ground you take? Because if you take that ground I will consider it." "No," said he, "I cannot put it on that ground. General Brady, in my opinion, is financially able to pay you." "Then," said I, "it is simply the question whether he owes the money or not." Mr. Wilson said, "Yes." "Very well, then," said I, "he will pay every cent of it or else he won't pay any of it." "That is your ultimatum?" said Mr. Wilson. I replied, "Yes." "When do you go away?" said he. I replied, "I think I shall go to-night." Said he, "You had better not go to-night. Where are you stopping?" I said, "I am stopping at the Riggs." Mr. Wilson went on to say, "I will see my principal and will call to see you to-night at the Riggs House at 9 o'clock." I waited until half-past 9 or a quarter to 10, but Mr. Wilson did not come, and he never made any allusion to it again. The subject was dropped and I went my way.

Q. How much did he suggest that you would be paid?—A. He did not make any suggestion as to any particular amount.

By Mr. FVAN:

Q. How much was your demand?—A. My demand at that time stood at about \$42,000, but there was a credit of \$7,500 that Mr. Brady was entitled to; so that the debt amounted to between \$34,000 and \$35,000.

By the CHAIRMAN:

Q. What was the basis of that claim?—A. Moneys loaned him at different times.

The next offer to compromise was made prior to the trial of the second case against Dorsey, Brady, and others. When here in the city of Washington I was approached—

Q. (Interposing.) What time was that?—A. I fear that I am not getting these offers in their proper order. On the occasion of which I am now speaking a gentleman approached me here in Washington, saying to me, "Mr. Walsh, I want to talk to you in relation to your claim against General Brady." I said, "All right, sir."

By Mr. FVAN:

Q. What was the name of that gentleman?—A. Will you insist upon that? He is a gentleman who makes his living largely by retaining confidences, but, of course, I will give it if you say so.

The CHAIRMAN. I think you had better state the name.

The WITNESS. Well, I have a great regard for this gentleman; but, really, this thing is becoming so oppressive that I don't think I can keep anything secret about it. The gentleman that approached me on that occasion was Mr. Rice. I think his initials are W. P.; at any rate, he was the secretary of Senator Conover, of Florida, I think. He is a tall gentleman. Inasmuch as there was no impropriety in what Mr. Rice

did, there can't be any harm in mentioning his name. What he did was perfectly proper for him to do. He did not do anything which would implicate him improperly. He called to see me at my room, corner Twelfth and G streets. He said, "Mr. Walsh, I come to speak to you in relation to your claim against General Brady. I think the time has arrived when you can get your money." I said that was a time I had been very anxiously looking forward to, and that I was glad to hear tidings of the bread that had been cast upon the waters so early in life. He asked me how much it was. "Well," I said, "as filed in New York it is \$42,000, but that is wrong, because Brady is entitled to a further credit of \$7,500. Still, when you figure interest and everything, it will stand somewhere in that neighborhood." "Well," said he, "you can get your money." Said I, "Have you got it in your pocket?" "No," said he, "not exactly; but the matter has reached this shape, Walsh. The defendants realize that you are the material witness against them, that you are the man that has caused them all this trouble, and, seeing that, realizing it, and appreciating further that Brady is a hog, and that he either will not pay you, or is not able to pay you, they have determined, for their own protection, that the best thing they can do is to—(I think I will use Mr. Rice's language)—to chip in and pay you." Mr. Rice did not seem to think there was anything wrong about that. I don't know myself whether there was or not. I said to Rice that that was rather a singular proposition to make to me; that the defendants outside of Brady did not owe me any money, and I said, "Mr. Rice, I should think that would astonish you. They have said that I am a blackmailer; I have seen that in print frequently coming from those gentlemen." Mr. Kellogg very early went into print after the second grand jury had adjourned without indicting. Feeling that he was out of the woods, he rejoiced exceedingly, and lifted up his voice in the New York Evening Post of July 15, 1882, if my memory serves me right; and, speaking of the failure to indict him, he told the world that there was not a check, there was not a paper, there was not a document, there was not a scrap of paper of any kind produced before that grand jury bearing his (Kellogg's) name. He went on to say, "This is all over now, but the day of reckoning for blackmailers is coming." "Now," said I, "Mr. Rice, don't you think that if I were to put myself in the position you propose, all that would be true?" He said no; that he didn't see it in that way. Said he, "It is a large sum of money, and I don't think you have any right to inquire where the money comes from." "Well," said I, "perhaps, Mr. Rice, I would not have inquired, but you have been indiscreet enough to tell me. If I were to stop the inquiry now undoubtedly I would be *particeps criminis*. I cannot do what you propose; I cannot do that." "Well," said he, "Walsh, I am astonished at your drawing such lines as those." "Well," said I, "Mr. Rice, I can't help it; perhaps my education has been defective—too much pride, may be; I don't know what it is, but I won't do that." "Well," said he, "will you see Dorsey?" Said I, "I have no business with Mr. Dorsey. I saw him once (referring to the Gilsey House interview); he is a gentleman with whom I have a very slight acquaintance; and I told him then that I thought it was indiscreet on his part to take a hand in this Brady business; that he had better let Brady do his own talking; that he (Dorsey) was going to be tried, and that perhaps if I got on the stand as a witness there might be some questions asked me and my answers might militate against him. I said to him," "I would not do such things if I were in your place." "Now," said I to Rice, "when the trial occurred the in-

quiry took that very turn. I was asked whether I had ever been offered any compromise, and of course I was going to testify that I had; but the counsel objected, claiming that that was not proper. There was some argument about it and the court sustained the objection, saying that the defendant had a right to purchase his peace." All this I recited to Rice, and I said to him, "Clearly, I do not want to have any talk with Dorsey. His case is coming up again." You will understand that I was not then under subpoena. The case was not on; so that Mr. Rice was doing nothing but what was perfectly proper; the only impropriety would have been in my receiving the money. I told him I did not want to see Dorsey. He said he was sorry; that if I would talk to Dorsey about it he thought it would be made clear to me. I said, "Mr. Dorsey does not owe me any money; why then should I talk to him? Put yourself in my place and tell me why I should talk to him." "Well," said Rice, "I don't know. If you want your money you ought to be willing to talk to anybody." "All right," said I, "I will not do it." He left me. I met him next day on the street and he said, "I have spoken to Dorsey about that, and I now renew the request that you see him." I said, "I am much obliged, but I won't do it." "Well," said Rice, "I must express my regret about it." I said, "All right," and we parted. A day or two following he met me again and said, "Walsh, Dorsey is very much affected by what you have done and said." Said I, "What have I done and said?" "Well," said he, "Your refusal to see him; he feels it very bitterly. He says, 'Good God! what have I done that Walsh won't speak to me?'" "Now," said I, "Rice, don't talk to me that way. It would not matter to me if there were one hundred indictments against him. I treat men as a rule in a polite and gentlemanly manner, and if I meet Mr. Dorsey I will bow to him and recognize him just exactly as I have always done since I have known him; but I don't want to talk to him about that matter." That was the end of it.

Q. Was this conversation to which you have referred prior to the time you appeared and testified on the trial of the case the second time before the petit jury?—A. Yes, sir; prior to the time of my appearance before the second traverse jury, and subsequent to the second grand jury's failure to indict Kellogg.

Q. Was there any intimation or any suggestion made by Mr. Rice or others during that time that the receipt of any money by you from those persons who were to contribute to pay you was to operate not only to the payment of your claim against Mr. Brady, but also to keep you from appearing as a witness?—A. Mr. Rice did not say that.

Q. He did not?—A. Oh, no; perhaps, as the French novelists say, that goes without saying. The difficulties surrounding me in the matter were simply these: I felt that, if I received money, it would be very difficult for me to go on the stand, and I felt also that Mr. Brady would not pay me if I were to go upon the stand.

Q. If there had been no suits pending, no litigation in which you were to appear as a witness, there would not have been any impropriety in Brady's friends contributing to a fund to pay his debts, would there?—A. No; but they are not generally under such humanizing influences.

By Mr. STEWART:

Q. I suppose you have no other evidence that this man represented either Brady or Dorsey beyond his own statement?—A. None whatever.

Q. So that you cannot testify that either Brady or Dorsey ever sent him to you?—A. No, sir; not of my own knowledge.

Q. He did not present any credentials of any sort?—A. None whatever.

Q. And you did not have any communication with either Mr. Brady or Mr. Dorsey in reference to this matter?—A. I did with Mr. Dorsey, in the Gilsey House in New York. That was a prior proposition; but, of course, I understand your question to refer to this transaction of which I have been speaking. Your question suggests something to me, Governor Stewart. You have asked me if this gentleman came accredited from anybody. I have no proof of that; nothing but his simple statement. But prior to this interview with Mr. Rice one afternoon, traveling between here and New York, I happened to take the same train on which Mr. Kellogg was a passenger. I found him seated well forward in the parlor car. I went up in that direction. I did not see him, however, until I got quite close to him. He spoke to me; said, "How do you do, Mr. Walsh?" "How are you, Governor?" said I. "Sit down," said he. I sat down in the next seat and talked to him. Mr. Kellogg's relations and mine have always been pleasant—always, until he fancied that I was disposed to do him some individual injury. I think he fancies that all that I have done has been done as a personal matter. In that he is wrong. I am not doing anything with regard to him personally. Personally, my feelings toward him are kindly. On this occasion he said, "Walsh, why don't you settle that matter with Brady?" I replied, "There is no trouble about my being willing to settle; Brady is the obdurate man." Mr. John I. Davenport, of New York, was also a passenger on the train. Mr. Kellogg would probably deny that he ever talked to me, being an apt man at denials. But Mr. Davenport was on the cars, a gentleman whom I know, and I talked with him also. Kellogg and myself, however, talked nearly all the way to New York. He said there would be no difficulty whatever in settling the matter; that he would do all he could to facilitate it; that he felt friendly towards me; that he considered that Brady owed me money, was satisfied of it; indeed, he said Brady had admitted to him that he owed me money; and, said he, "I will do all I can, and, if you are willing to settle, there will be no trouble whatever in the way." I said, "Certainly I am willing to settle; a settlement is all I want. When we got to New York we rode up together in the elevated train as far as 32d street. He got out there and went to the Fifth Avenue Hotel, and I went on up-town. When I got to Washington next time after that Mr. Rice approached me as I have stated. That is the order in which those two interviews occurred.

Mr. Merrick commenced writing me letters asking me to appear as a witness before the third grand jury. I told him that I would not appear any more as a witness before a grand jury with George Bliss acting as attorney for the United States. Then ensued that correspondence between us, which is of record here. They say there was some difficulty in finding me to subpoena me, but finally they did find me. I was standing one day on the corner of Broadway and Wall street, and I started from there and went down to the Battery, where I got on the elevated train; and, as I learned afterwards, a man was following me all the way, and when we reached Thirty-second street he managed to get some ink somewhere and filled in the date, and served the subpoena on me. I telegraphed to Mr. Merrick that I was not feeling very well, and I should prefer to wait in New York, but would come on when he said it was necessary. When he did say it was necessary I came. I stopped at Wormley's. I got in at night, perhaps, and the next day Mr. Gibson called on me and said, "Walsh, you can get your money." "In-

deed," said I. He said, "Yes, you can be paid your money." Said I, "I am very glad of that, Gibson." Said he, "You can get your money with consequential damages." "Consequential," said I, "What does that mean in this case?" "That means," said Mr. Gibson, "compensation for the annoyance and the expense to which you have been subjected. Whatever you say is reasonable for that will be paid to you in addition to your claim." Said I, "Do you know that I am here under subpœna?" "No," said he, "I did not know that." "Well," said I, "I am. Is there any wild desire to pay me *now*?" He said, "No," and that ended the matter.

I think the last time that any offer of payment was made to me was last January. My attorney was approached, and he said that he thought it would be a good thing to settle the claim; that they did not have much money, but still would do the best they could.

Q. Who was that attorney?—A. Mr. E. H. Grandin.

Q. Who approached him?—A. Mr. Charles H. Reed, the great defender in the Guiteau case, counsel for Brady, and counsel for Kellogg.

Q. Tell us about that offer.—A. Mr. Reed came to see Judge Grandin, my attorney, and offered to pay \$10,000 as a compromise of this matter. I had begun proceedings in New York to get the testimony of Brady and Kellogg. I had got service on both of them; but they managed to escape testifying on account of the defectiveness of my papers. The papers were defectively drawn—the court so held. Mr. Reed appeared as attorney for Brady, and also for Kellogg. Hence he was brought into contact with my attorney, Mr. Grandin. Owing to this defect in the drawing of my papers, Brady and Kellogg were released from subpœna, and consequently I could not get their depositions. Mr. Reed then approached Mr. Grandin some time in January of this year. He told Grandin that there was a great desire to settle this difference between Brady and me, and that they would pay \$10,000. He made some mention of Kellogg's name in it; the impression left on Grandin's mind was that Kellogg was to pay something. Mr. Grandin told me of this, and I said, "Grandin, you know that I have no business with Kellogg; he owes me no money; I owe him none. These transactions were entirely between Brady and myself, and there must be a total avoidance of Mr. Kellogg's name in this matter." Mr. Grandin said, "I told Reed that." "Well," said I, "Reed ought to have known better." And then I said, "However, that proposition is ridiculous. I would not take any \$10,000. Just let the matter rest." Mr. Reed came a few days subsequent to that and stated that he had had interviews with Brady and offered \$15,000. Mr. Grandin by note communicated this proposition to me. In that note he said, "Mr. Reed has now offered \$15,000. In my opinion, if you say \$25,000 the matter can be arranged." I said that I would not take anything less than the amount of my claim. Said I, "There is no use in bothering with it anyhow, Grandin; of course there is no desire to pay me unless I leave the country, and I cannot do that; so don't bother your mind about it. I have been approached unceasingly about this matter up to this time, now just let it drop. So it dropped.

By the CHAIRMAN:

Q. Have you ever authorized anybody to demand of any of these defendants a sum of money in consideration of your failing to attend as a witness?—A. No, sir.

Q. No one has ever been authorized by you to make any such demand

or proposition?—A. No, sir; no one has ever been authorized by me. All it would have required was that I should accept their propositions. As that idea runs all through Mr. Bliss's testimony, that I would probably be out of the way in case I was paid my claim against Brady, I have thought it material to make this statement as to the offers of payment that have been made to me.

Mr. STEWART. Mr. Bliss in that testimony refers to your claim against the Government, not to your claim against Brady.

The WITNESS. Oh, he refers repeatedly to my claim against Brady—more to my claim against Brady than to anything else.

By Mr. STEWART:

Q. He had nothing to do with your claim against Brady, had he?—

A. Nothing, except that he had a general knowledge of it. It was filed in court in June, 1881, and telegraphed all over the country long prior to the finding of any indictment.

By the CHAIRMAN:

Q. What is the form of action in that case?—A. It is an action at law for money lent Mr. Brady.

Q. Do you sue Brady on notes or on open account?—A. I had to sue him on open account, because he took his notes at the time of our December interview. He said that the matter was adjusted and settled, and he captured the notes.

By Mr. STEWART:

Q. What was the date of that loan?—A. I had loaned him money prior to that indebtedness, for which I had brought suit in court; but he had paid the prior loans. I had one or two transactions with him as early as July 21, 1879, according to my recollection.

By the CHAIRMAN:

Q. How did it happen that Mr. Brady came to you to borrow money?—

A. He borrowed of me just as you see by that "ginger" letter that he wanted to borrow more. What moved him to ask me to lend him that \$24,000? Simply that I had money, and that that was in the line of my business.

By Mr. STEWART:

Q. Well, men do not ordinarily, when they want a simple loan, talk about "ginger," do they? If it was an ordinary transaction, would not he say, "Mr. Walsh, I want to borrow \$24,000, and I offer you such and such security?" That round-about way of applying for a loan strikes me as rather odd.—A. But, judge, would not that be largely dependent upon the man's character, the drift of his mind, and the kind of language he is accustomed to use?

By Mr. VAN ALSTYNE:

Q. Brady used the expression "ginger" in relation to a loan of a certain stock in the market?—A. Yes, sir. He knew that I was interested to some extent in that stock. He had seen me buy 300 shares, and he probably said to himself, "Now, Walsh, to the extent of 300 shares, is in the same boat with me." According to rumor, he had a large quantity of that Chattanooga stock, as much as 2,500 shares. It was a small capitalization, and was held by a few, and they had had it up as high as 130, a fabulous price, but it had gone down again.

By Mr. STEWART:

Q. No matter about that now. At the time you gave Brady this credit, of which you have spoken, for \$10,000, what was the amount of his indebtedness to you?—A. Do you mean at the time of his first loan, which is of record in the court?

Q. You have stated that you credited Brady with half the money that you got through the Price drafts, and that the amount of the credit was \$10,000?—A. Yes, sir.

Q. My question is, what was his indebtedness to you at the time you gave him that credit?—A. About \$10,000 or \$12,000. I can refresh my memory by referring to papers, if you desire.

By the CHAIRMAN:

Q. Do you mean that the amount of his indebtedness was that much after the payment had been made or before?—A. The first money loaned him in the sense of a loan was July 21, 1879, \$12,000. Some time in the fall of 1879 Kellogg handed me the Price drafts, amounting to \$20,000, one-half to be put to his, Kellogg's, credit and one half to Brady's credit. I handed over Brady's first note after receiving that payment.

Q. How much was that note?—A. Twelve thousand dollars, according to my best recollection.

By Mr. STEWART:

Q. And you handed over the notes when you had received only \$10,000?—A. Well, governor, it will really get worse if you go into it further. I had had the half of Peterson's drafts turned over to me by Brady. Peterson was a mail contractor on the route from Alexandria to Shreveport—

Q. (Interposing.) You have stated that. Now what else? You had this \$10,000?—A. I had the \$10,000 and half of this \$15,000.

Q. That made \$17,000 and over?—A. Yes, sir.

By the CHAIRMAN:

Q. Your claim against Brady was \$12,000?—A. Yes.

Q. So you gave him up the \$12,000 in notes?—A. Yes, sir; I had paid him about \$3,000 on the drafts.

By Mr. STEWART:

Q. Then you owed him?—A. No; I do not know that I owed him. Don't get ahead of the record, please.

Q. Explain that Peterson matter.—A. Brady wanted me to buy the half of Peterson drafts, \$15,000; I did not feel like buying it, but I let him have about \$3,000, which is not included in this suit of mine at all. I advanced him that on account of the \$7,500, being one-half of the Peterson drafts.

By the CHAIRMAN:

Q. Who gave you those Peterson drafts?—A. Peterson himself.

Q. Who is he?—A. A mail contractor.

Q. What was the nature of those drafts?—A. They were postal drafts—drafts on his pay.

Q. And he directed you to pay half the amount to Brady?—A. No. He said to me, "You know about these drafts." Kellogg had come to me and said that Peterson would hand me over \$15,000 in drafts.

Q. Well, what did you do with the drafts?—A. I kept them and collected them.

By Mr. VAN ALSTYNE:

Q. Did Mr. Kellogg tell you what to do with the money?—A. Oh, yes; one-half was to go to him and one-half to Brady. Brady spoke to me about it, and wanted me to buy his half, which I did not want to do, and which I was very fortunate in not doing, because later on there came a *dies iræ*, such as always seems to follow these things, and Peterson's pay was curtailed.

By Mr. STEWART:

Q. What did you receive on those drafts; or did you receive anything?—A. Oh, yes. The records of the Department will show how much I collected.

Q. Did you credit Brady with anything on the Peterson drafts?—A. He was not entitled to the credit until he got through discharging the \$3,000 debt that he owed me on those drafts.

Q. And that he did discharge?—A. No, sir.

Q. He discharged a portion of it?—A. Yes, sir.

By Mr. VAN ALSTYNE:

Q. By your collections?—A. Yes, sir; pretty nearly all of it; that is my recollection.

By Mr. STEWART:

Q. How did the account stand between you and Brady? I do not want to ask you anything about your private business, but how did the account stand between you after you had credited him with the \$10,000?—A. Well, at the time of the filing of my suit, the account stood against him in round numbers, \$42,500; but I had omitted a credit of \$7,500 to which he was entitled, and I afterwards gave him that credit.

Q. But you filed your suit a long time after this credit of \$10,000 was given, did you not?—A. Oh, yes.

Q. Now, my question is, how did the account stand between you and him after you had credited him with the \$10,000?—A. Well, I should say that at that particular time, taking the \$10,000 from the \$12,000 there would be a balance of \$2,000 due me.

By Mr. VAN ALSTYNE:

Q. His chief indebtedness to you has grown up since?—A. O, yes; in repeated transactions.

By Mr. STEWART:

Q. After that time you advanced him money?—A. Yes, sir.

Q. Did you take his notes?—A. I did. Sometimes I did not. For the large amounts I did.

Q. Then you had notes of his?—A. Oh, yes; I had \$25,000 of his notes, which he captured as abandoned property.

Q. You understand that it is a pretty serious thing to talk about a man taking property that does not belong to him?—A. Yes. Well, that is what he did.

Q. Upon what claim?—A. Upon the claim that he had done me valuable service in increasing the pay on route 40101. I had met him at his house for the purpose of having an adjustment of the accounts between us and he captured the notes.

Q. You are not a weakling in any sense—

The WITNESS (interposing). "A Roman gladiator." [Laughter.]

Mr. STEWART. No; but you are not a weakling at all, and I want to

know how you came to allow him to capture your property in that way. How much do you say he took?—A. The notes amounted to \$25,500.

Q. Was there anybody else in the room at the time?—A. No.

Q. Won't you please tell us the circumstances of his taking the notes?—A. With a great deal of pleasure, sir. It is a little old, but I will go into it again if you desire. You will perhaps remember that I introduced here on the first day of my testimony a note which was addressed by me to General Brady asking him to meet me at the house of General George A. Sheridan.

Mr. STEWART. I remember all about that, and that you had an interview with him there.

The WITNESS. Well, at that interview I had the notes with me. There was a matter of interest to be discussed, and there was a matter in relation to the Peterson drafts. I had made memoranda and had gone all over it in my mind, with the view of having a settlement of some sort with General Brady. Matters were approaching a crisis. He had some time before that tried to borrow about \$24,000 more of me, as you will remember, by the "Ginger" letter.

At this interview I began the conversation. The relations between General Brady and myself were fairly pleasant, and I began the conversation and said that I thought we perhaps might as well have an adjustment of our account, that I was not getting any richer, that, on the contrary, there was a very steady depletion of the exchequer in my case, and that if it was agreeable to him and he was in condition, I would like to have the matter adjusted. He sat there silent. He is not a very communicative man at any time. I put the notes on the table with the memorandum of interest. "Now," said I, "General, in relation to the interest, we of course will have to determine that, for the reason that money has been pretty high at times and quite low at other times, and I take it that you are willing to do whatever is fair about that." "Well," said he, "how do you figure it?" I said, "There it is." The notes were on the table with other papers. He took them, nervously moved them about, and went on talking—talking about Chattanooga, among other things, and finally he says, "Well, Walsh, do you think there is really any indebtedness by me to you?" Said I, "What do you mean, General?" "Well," said he, "don't you think, now, that you understood these transactions perfectly? You are not really going to regard these transactions as borrowed money, are you?" "Well," said I, "what other light can I regard them in? In what other light can I view them?" "Oh, well, now," said he, "there is no use of your pleading ignorance about it; you must understand these things by this time. You have good common sense." He flattered me very much, as Governor Stewart did just now, and suggested that it did not require a surgical operation to get an idea through my head. However, I told him I did *not* understand the matter; that I did not see where I came in. I said, "Gad, I don't see where I come in." "Ah!" said he, "you don't?"

All this time he was nervously twitching the papers about. "No," said I, "I do not." "Well," said he, "you are aware that your service was increased from \$74,500 up to \$134,500 per annum, are you not?" I said, "It was increased from \$18,000 to \$135,000." "But," said he, "up \$74,500 (in round numbers, \$74,000) that was paid for." "Paid for?" said I, "Oh, yes; yes, it was; I paid that myself." I began to have a faint recollection that some of my own money had gone to old Brown, and I said, "Yes; I paid that myself." "Now," said Brady, "\$75,000 from \$135,000 leaves, in round numbers, \$60,000 per

annum, don't it?" I said, "Yes." "Twenty per cent. of \$60,000," said he, "is \$12,000; that multiplied by three years makes \$36,000. I think you understand that?" By the time he said this the notes went into his pocket. I said to myself, "Presto, change! the great Cagliostro, by gad!" However, I was very calm. I have to be calm. All my life has required calmness. There have been great drafts made upon that element in my character. Said Brady, "You figure that, do you?" I said, "Yes—yes." "Then," said he, "further, you will remember the remission of fines and penalties amounting to about \$6,000 or \$7,000, as near as I can recall." Said I, "Yes, that is so." "Well," said he, "50 per cent. of that, Mr. Walsh, would be how much?" "Oh," said I, "that is clear; \$3,000, if the amount was \$6,000; \$3,500 if it was \$7,000." "Then," said he, "you owe \$8,000 to the Congressional fund, which you affected to know nothing about." "Yes," said I, "I took occasion very early to say that I knew nothing about that. You refer to Chase Andrews's demand?" "I do," said he. "Now," said I, "General, it is not possible that there is anything of that kind to be charged against me." "Why not?" said he. Said I, "Why not? My gracious! the fund must have been an enormous one. If I was assessed \$8,000, and everybody else was assessed in proportion, my conscience! what an awful fund it must have been!" "Then, further," said I, "there would be a doubt in my mind as to who disbursed the fund, or whether it was disbursed properly. There are many questions which suggest themselves to me, and which would perhaps occur to you if you were in my place." Said he, "That is none of your business. You have nothing to do with that. The appropriation went through and you were benefited by it just as the rest were." I said, "Yes, I was benefited by some inverse rule, but not in any other way that I have been able to discover." "All right," said he, "there will be no more discussion about that. You saw quite enough to know what you were expected to do if you chose to use your common sense." "What do you refer to?" said I. "I refer," said he, "to the drafts that came into your possession. I refer to that; I refer to your common sense." "Well," said I, "General, the drafts that came into my possession might have been entirely fair and proper. Why should I infer anything from that business?" "Well," said he, "there are things that any man ought to infer." "All right," said I, "I will infer it then." Said he, "The \$25,000— in drafts that Price turned over to you on the Indianola and Corpus Christi route represented the balance of Mr. Price's assessment for the Congressional fund. Price is a pretty hard man to deal with, or to make understand anything, but I had no difficulty with him or with the others." "Well, General," said I, "Price is an optimist; he is an enthusiast; he always thinks that there is a great deal of money in anything he touches. I cannot be induced to take that view." As I sat there I thought over the state of things, and the idea occurred to me that I would see what effect it would have on him to threaten him with litigation, and I said, "General, you do not really think you are going to settle this matter in this way, do you?" Said he, "Why not? What are you going to do?" Said I, "I will go to the courts." "Well," said he, "you can go there. The courts are all wide open. What good are you going to do there? You do not really imagine, Walsh, that you are going to gain anything by doing anything of that kind. What good will it do you?" "All right," said I, "I can stand a good deal, but this is going too far. Now I will tell you what you can do. You do not want me to lose money, I am sure; there is no reason why you should. I was moved to advance this large

sum of money to these men, McDonough, &c. (which was the beginning of all my woes), largely through your representations that McDonough was in good standing as a contractor, and therefore, in all fairness, I think you ought to help me out"——

Q. (Interposing.) You have stated all that already. Did you demand the return of the notes, or did you submit as philosophically as you say, merely telling him that he was not going to settle the matter in that way?—A. Undoubtedly I did. I may have shown a little more feeling than I have shown here in reciting it.

Q. How did you expect to prove your case if you went into court?—A. I expected to prove it the best way I could, by getting Price's deposition in one instance and Kellogg's in another.

Q. You did not know that you could get those?—A. I did not. I knew, though, that Price had not given me any \$20,000 of drafts. The record will show that I pursued Price with the greatest diligence in order to get his deposition, and he has sworn that the reason he did not depose in the case was on account of Senator Kellogg.

By Mr. MILLIKEN:

Q. Did you demand of Brady to give up those notes after he put them in his pocket?—A. Of course I did.

Q. What did he say?—A. He said, "Oh, Walsh, that is too silly. It is puerile to talk in that way. You know that you have had a valuable contract." I think Brady really believed that that \$135,000 a year was a bonanza. I could not disabuse him of that idea. I referred to my testimony before the Blackburn committee. I said, "Put yourself in my place; would you think for a moment that you owed anybody in such a case, especially when you recall the fact that I agreed to pay Hinds \$20,000 for no other reason in God's world than to secure peace?" "Oh," said Brady, "\$20,000, Walsh, is not anything. How can other men do these things? You have a most valuable contract." "Well," said I, "I don't seem to be able to convince you of anything. I tell you it is not a valuable contract. I am willing to go out at any time. Just instruct some of your contractors to let me out and I will go out at a loss of \$20,000 or even \$25,000." He could just as easily have done that as I can testify here to-day.

By Mr. STEWART:

Q. When he made the statement that 20 per cent. on \$60,000 per annum was \$12,000, and that three times that was \$36,000, did he make any explanation of that peculiar statement?—A. He said that that was the method; that that was what he asked for all increases and expeditions.

Q. Three times 20 per cent.?—A. No; but the contract ran for three years, you know.

By Mr. FYAN:

Q. Then, I understand you to say that Brady insisted that this money that he had got from you was a payment to him for having increased your service?—A. Yes, sir.

Q. And also for lobbying a bill through Congress?—A. Also for money paid to Congressmen to get the star route appropriation through subsequent to the investigation which was conducted by the subcommittee of which Mr. Blackburn was chairman.

Q. You took another view of it, and assumed that he had borrowed the money of you, and was still indebted to you to that amount?—A. Undoubtedly. I had no reason to assume anything else. If he had

succeeded in getting my \$25,000 worth of Chattanooga stock, as he tried to get it, I have no doubt that I would have been treated in precisely the same way as to that—subjected to the same procrustean operation that I was subjected to in these other matters.

By the CHAIRMAN:

Q. State what he said in regard to that Congressional fund.—A. Well, he would not go into that. There was talk at that time to the effect that Brady had not really disbursed that money. Contractors charged him, if I may be permitted to use so harsh a term, with stealing the money—charged that he had got it out of them on this pretext, and had put it in his pocket; but he did not go into that.

By Mr. MILLIKEN:

Q. Have you ever brought a suit for those notes?—A. Yes, sir; for the amount of them.

By Mr. STEWART:

Q. What is the amount?

Mr. VAN ALSTYNE. He has already stated that the amount of his claim was \$42,000, from which was to be deducted a credit of \$7,500.

By the CHAIRMAN:

Q. Is that suit pending in the District of Columbia?—A. No, sir; it has been transferred to New York.

By Mr. MILLIKEN:

Q. Have you ever instituted any criminal prosecution against Brady for taking those notes in the way he did?—A. No, sir; and after witnessing the Government's performance in the other criminal prosecutions, I am very glad that I never did. [Laughter.]

Q. You waited to see how the Government would come out?—A. Well, I thought. Mr. Milliken, that if I could get out without being prosecuted myself for testifying, I would be very fortunate.

By Mr. FVAN:

Q. If I understand the statement which you made a few moments ago, the fault that the contractors found with Brady was that, instead of using the money to buy up Congressmen, he had pocketed it himself.—A. Yes, sir; they spoke that way, and I suggested to him that if I had to pay \$8,000 to that fund I ought to know where it went; and in reply to that he said that I would perhaps find more business in attending to my own affairs. Well, I thought that \$8,000, if I had to pay it, would constitute a part of my affairs, but he did not seem to take that view.

Q. Have you ever taken Price's testimony?—A. I could never get it. I attempted to take it here, and, to my intense surprise, when I went in before the commissioner, Price appeared there with counsel. Jere. Wilson and Jeff. Chandler appeared representing Brady, and Mr. Cole, the partner of Mr. William A. Cook, appeared to represent Price. Mr. Cook, to whom I had paid a retainer in my civil action against Brady, comes in before the commissioner, through his partner, Mr. Cole, as the counsel of Price. [Laughter.] Well, the whole thing is really too funny. To speak figuratively, they fairly snorted over me, and said that I was a very bad man indeed, and my lawyer, a young man by the name of Thomas, looked as if he had done something wrong himself, and the result was that I had to do the principal part of the talking there. Price was reticent. He said that he had nothing to do with Walsh's affairs

or Brady's affairs, and generally he assumed a lofty and magnificent air and declared that he would not testify. He was asked, "Mr. Price, don't you think you ought to give your testimony in this case?" He said, "No; I do not think so." He was then asked, "Do you remember these drafts?" "Yes," said he, "those are my drafts." "Did you ever give those drafts to Walsh?" I think he answered that he did not—either that, or he declined to answer. I asked the commissioner to certify to the court that Mr. Price had refused to answer, and let me bring the matter before the court in order to get a ruling as to whether or no he should answer.

Q. Did Price decline to answer, upon the ground that he could not do so without criminating himself?—A. He would not put it so squarely as that. It was, perhaps, substantially that; but Price seemed to be unwilling to do anything—anxious, seemingly, only to get away.

Q. Well, the upshot was that you did not get his testimony?—A. Oh, no; I did not get his testimony. The commissioner let him off.

Q. When was that?—A. I think that was after I testified before the third grand jury.

Q. Who was the commissioner?—A. Mr. Bradley.

Q. Have you made any effort to get Price's testimony since?—A. No. I don't know where he is.

By Mr. FYAN:

Q. I thought you stated that you had a subpoena for him, and one for Kellogg, to appear in New York, and that they were served, but the service was not good?—A. No; that was Kellogg and Brady. I expected to get Mr. Price the other day, as I understood that he was to appear before this committee, but he went off. Mr. Price does not want to testify.

By Mr. STEWART:

Q. He does not know anything of your transactions with Brady subsequent to those drafts?—A. No, sir; but he knows that he never gave me the \$22,500 of his paper that I had. He knows that. Then, that being so, the question arises, "How did you come by it, Walsh? Were people giving you money?" Of course, there could be but one answer to that.

By Mr. MILLIKEN:

Q. Your statement in regard to Brady would imply that they were taking it away, rather than giving it to you.—A. Yes, sir.

Q. Does Brady now deny that he took those notes?—A. I don't know. I think that perhaps he would deny it. He admits, however, that he owes me some money, but not so much as I claim. I have tried to get him to say how much he does owe me. Mr. Reed sent to my attorney in New York about it, as I have stated. My attorney thinks I am a fit subject for incarceration, because I have not taken my money, and I don't know but what he is right. He said to me, "You have played the devil now; you have returned from Montreal and gone on the witness stand, and now Reed says they'll be blowed if you ever get a cent. Brady is execution-proof, and you can go to the bow-wows." Reed said this in substance to my attorney, Judge Grandin, and he so wrote me, and he thinks I have been foolish.

By Mr. FYAN:

Q. He thinks you have been foolish because you have been testifying?—A. Yes, sir.

Q. He thinks that you should have taken your money and kept your mouth shut?—A. Yes, sir. He says, "Walsh, the United States Government has acted in your case as I have never known it to act in the case of any Government witness before, and you are under no obligation to it at all." "Well," said I, "Judge, I owe something to myself. I can't help it. If I were to leave now, these men would all publish to the world that they had bought me, and that I was the worst scoundrel in the world." While the Government people were trying to find me to subpoena me Kellogg and these other men were going around claiming that I did not dare to come back, and that I had been bought. Indeed, I think the Government itself was impressed with that idea. That was one of the misfortunes of my position.

Q. Are there indictments pending against Brady?—A. I think there are.

Q. Have you been subpoenaed as a witness in any such case?—A. No, sir; I am not under subpoena now. The Government, I suppose, does not want to pay me \$1.25 a day for an indefinite period. You see at \$1.25 a day I have been inclined to give expression to Red-Republican ideas. The conservatism of \$100 a day has not extended to me. At that rate a man can afford to be very conservative.

Mr. VAN ALSTYNE. I don't understand that last expression or yours about "Red-Republican ideas."

The WITNESS. I mean that I am, perhaps, rather inclined towards Socialism, Saint Simonism. [Laughter.]

Mr. FYAN. I asked you that question because of the intimation of your attorney, as you understood it, that you had now put yourself out of the way of getting any money by being ready to testify against these defendants.

The WITNESS. My attorney was not giving any opinion at all. He was simply repeating what Reed had stated to him.

Q. Since this recent action in the Kellogg case has Brady admitted that he owes you anything?—A. I have not been in New York for a month.

By Mr. VAN ALSTYNE:

Q. You have not had any interview with Mr. Brady, directly or indirectly?—A. No.

Mr. FYAN. But Mr. Walsh has stated the substance of this communication which came from Brady's attorney to his (Walsh's) counsel in New York, and I am asking him whether that has occurred since the disposition of the Kellogg case by the court here.

The WITNESS. No; it has not. It has occurred, though, since I came from Canada. Mr. Grandin was referring to my coming from Canada here. He said that Mr. Reed considered that I was acting badly in coming back; that I should not have returned. Indeed, I would not have gone away but for the gate-way that Mr. Merrick was kind enough to leave open to me by saying that it was not Walsh they wanted, but the papers that he had in his possession. The Attorney-General, who has to take the responsibility, saw that that was a very unfortunate statement to be made by the counsel for the Government, and therefore he was unwilling to let the matter rest there. Hence the explanation made by the Attorney-General—hence the response from the President of the United States to my last letter—the first response that I have been able to draw from him.

By Mr. FYAN:

Q. Then, as I understand you, the reason why you did not accept

any of these propositions to compromise Brady's indebtedness to you was that you understood that those proposed compromises were connected with a proposition that you were not to appear as a witness?—A. Oh, there's no doubt of that. The evidence of it is very clear, you see.

Q. I am asking *you* the question now.—A. Oh, clearly it was expected that I was not to appear. Of course, I could not take the money and then appear upon the stand against them. I could not do that. Kellogg says that I am "broke;" that I did have some means at one time, but that I have none now. Well, it is no fault of Brady's if I have any left.

Q. Is there anything further that you desire to say in regard to the testimony given here?—A. Yes. Mr. Bliss, on page 213, speaking of the Spofford-Kellogg testimony, says, "I do not mean to say that it was knowledge that they (the grand jurors) had not a right to have." The committee will remember that Mr. Hutchinson, the foreman of the grand jury, testified here on Friday that he asked Mr. Bliss whether it was a proper thing for them to have that volume of testimony in the grand jury-room, and that Mr. Bliss told him it was.

Mr. Bliss goes on to say:

For instance, while I was waiting in the ante-room to be allowed to go before the grand jury, somebody was sent out, and that person came back after a little while with a book. When I got into the room, I ascertained it to be a book from the Congressional Library, containing testimony in the contest with Kellogg regarding his seat. Some member of the grand jury knew that in that contest there was testimony given by Walsh.

You see Mr. Bliss testified that he knew generally about the book.

By Mr. STEWART:

Q. Let me ask you whether in fact your testimony in the Spofford-Kellogg case was contradictory to your testimony before that grand jury.—A. No, sir; it was not. I have brought with me here an extract from that part of the testimony which was evidently expected to distract and confuse the mind of any person on that jury who was willing to have his view distorted. I had noticed the book there with the foreman and passing from the foreman to Mr. Semken. I had had some notion, from outside reports which had reached me, that Kellogg had been giving out, not in print, but by word of mouth, that my testimony in the Kellogg-Spofford case was contradictory to what I was expected to testify to before the grand jury—that I had sworn to so and so, something quite different, before the committee which had investigated the Spofford-Kellogg case; and hence I was somewhat suspicious of those people, and when I got through testifying in the grand-jury room I addressed the foreman, who was seated with reference to me about where the stenographer is now: "Gentlemen, have you got through with me? Do you want to see any more papers?" They said, "Nothing more." I then said, "Would you be kind enough, Mr. Foreman, to let me have that?" and I reached for the book. The foreman put his hand on it. Mr. Willard jumped up and put his hand on it. I said, "What is the matter?" They said, "You have no business with that." I said pleasantly, "Don't you think that that which would instruct you would be of some benefit to me?" They said, "No; mind your own business, Mr. Walsh." Mr. Bliss was engaged in conversation with somebody, and I turned to him and said, "Mr. Bliss, will you be kind enough to get that book?" "What book is it?" said he. Said I, "My opinion is that it is the testimony in the Spofford-Kellogg case." You

will remember, gentlemen, that Mr. Bliss said in his testimony here that he saw the book go into the jury room, but there he looked quite blank, quite surprised. Said he, "What has that to do with this case?" "Well," said I, "what is it doing in here, anyway?" Mr. Bliss turned to the foreman and said, "Mr. Hutchinson, will you be kind enough to let me look at that book?" The chairman handed him the book and he handed it to me and I opened it and found a place marked. Mr. Bliss sat there, looking around nervously, and asked, "What is it that you have found?" I said, "I have found this, Mr. Bliss; will you be kind enough to read this portion of the testimony?" This extract is from page 1022 of the record in the case of Spofford against Kellogg:

By Mr. MERRICK [attorney for Mr. Spofford]:

Q. Had you ever had any pecuniary transaction with Governor Kellogg?—A. No, sir.

Q. Officially or personally?—A. No, sir; I never had any transaction with Mr. Kellogg officially at all, and pecuniarily none at all except such as may have come in the matter of discounts; but I do not recollect it.

Q. That is what I asked, in the matter of discounts? I ask you if in business in New Orleans you were ever brought into contact with Governor Kellogg officially or as an individual?

That shows you what place was referred to in the examination. I have not copied my next answer here, but it was about this: "Officially," you will have to define what you mean by that. I never had anything to do with him officially, except perhaps to ask some friends of mine to be appointed to office. Pecuniarily, I had none. Mr. Kellogg was in the room during the examination. Mr. Merrick asked me: "Were your friends generally appointed?" I replied: "They were generally *not* appointed. Sometimes they might have been appointed. Mr. Kellogg indicated or intimated to me that they were done for me, but I never believed that. I thought they were done for politicians." Mr. Merrick said: "You are not a politician?" and I answered that I wa .

By the CHAIRMAN:

Q. Did you read that to the grand jury?—A. Mr. Bliss read it. When he got to that point I said: "That is enough, now, will you be kind enough to say how you understand that testimony?" Mr. Bliss said: "That is quite clear. You were examined and were testifying in relation to matters that had occurred in New Orleans." "Well," said I, "I hope that no gentleman here misunderstands that." Addressing myself to Mr. Hutchinson, he and the others nodded their heads. Mr. Hutchinson testified here the other day, as you will remember, that he did not understand that there was anything contradictory between my testimony on these two occasions; but it is my opinion that if I had not taken the dilemma by the horns the way I did, the statement would have gone to the world that the reason that grand jury did not believe me was that I had sworn differently in the Spofford-Kellogg case. The time when I testified in that case was the very heyday of our friendship, but I said at the time that it was disagreeable to me to appear as a witness, and that except for being a Republican and in sympathy with Mr. Kellogg, I had no desire at all to mix in the political quarrel; but he compelled me to appear. I happened to have had a suite of rooms adjoining his at Willard's, and a man named Barney Williams swore that on a certain night Mr. Kellogg had brought a certain number of members of the legislature of Louisiana there and, in the presence of Williams, had paid each of them \$500. Williams swore to this transaction and fixed the time. Mr. Kellogg's rooms adjoined mine and the

communicating doors were generally open and Mr. Kellogg insisted upon my coming before the committee to testify that on that night, to the best of my knowledge and belief, no such thing had occurred—and no such thing *had* occurred, and I so testified.

Q. Then you appeared in that case as a witness in behalf of Kellogg?—

A. Yes, sir; I appeared as a witness, greatly against my desire, as I stated at the time, because I did not conceive that I had anything to do with his political fights.

Q. And the matter in controversy in that part of the case was whether such payments had been made?—A. Yes, sir; whether this Barney Williams, at the time and place named, did see Kellogg pay \$500 or some other amount of money, to each of several members of the legislature.

By Mr. MILLIKEN:

Q. What do you say your testimony was?—A. That he never did any such thing.

By Mr. FYAN:

Q. When you were asked in that inquiry whether you had had any pecuniary transactions with Kellogg, had this Price transaction occurred?—A. I cannot tell you; but the record will show.

Q. I understand that when you made the answer which you did make in that examination you understood the question as referring to pecuniary transactions occurring in New Orleans?—A. Clearly so. I had not and I have not the slightest recollection of any such transaction in New Orleans. Mr. Kellogg has borrowed money from me here, but I do not recall any instance in which he did so in New Orleans.

By the CHAIRMAN:

Q. When was Kellogg elected Senator?—At the same time that Hayes was elected—1876.

By Mr. FYAN:

Q. The object of introducing this Spofford-Kellogg testimony into the grand-jury room was to show that you were contradicting it before that grand jury when you stated that this transaction with Price had taken place?—A. Yes, sir; that is what they were driving at. But you ask me the further question whether I can recall now any pecuniary transaction with Mr. Kellogg in New Orleans, and I say I cannot.

By Mr. VAN ALSTYNE:

Q. Were you a broker in New Orleans?—A. Yes, sir.

Q. When did you break up your office there and come here?—A. I think it was perhaps in 1876 or 1877.

Q. And all the transactions you have testified about occurred here?—A. They occurred here.

By Mr. FYAN:

Q. I suppose you understand and intend to convey the idea here that that Kellogg-Spofford testimony was introduced into the grand-jury room for the purpose of leading the jury to believe that although you there testified against Kellogg as to these pecuniary transactions you had testified differently before the Spofford-Kellogg committee?—A. Yes, sir. You see I was asked about "pecuniary transactions." Of course I might have had pecuniary transactions with him which might have been perfectly legitimate, but if he could have shown that I had had any before that time there would have been a contradiction.

By the CHAIRMAN:

Q. Is there any other point on which you would wish to make any remark?—A. Yes; I want to say a few words further on this point. Mr. Bliss goes on to say:

At the same time I beg to remark that the book was not there by any instigation of mine, and I would have been sorry to have had that question to meet on a motion to quash.

You will recall that Mr. Hutchinson testified here that he had consulted Mr. Bliss as to the propriety of having that book in the grand-jury room, and that Mr. Bliss approved of it.

Mr. Walsh had testified before the Congressional committee, in a sort of general way, that he had never had any dealings with Kellogg, or something of that sort. Of course this question of his drafts there seemed, in a measure, to be inconsistent with that theory, and, therefore, I took the book and questioned Mr. Walsh about it right there.

He never took the book voluntarily; I had to make him take it. He never questioned me about it; I questioned him.

Again, Mr. Bliss testifies as follows:

Q. What member of the jury was that?—A. Somebody was sent out for the book; the attendant went, I believe. I always believed, without knowing the fact, that the party went to the district attorney's office, and the district attorney sent up to the Congressional library and got it.

You see he is very vague. He does not wish to assume any responsibility, but I wish to call the attention of the committee to the fact that Mr. Hutchinson, the foreman of that grand jury, in his testimony here puts the responsibility upon Mr. Bliss.

Mr. Bliss speaks in his testimony about Mr. Corkhill. I do not want to say anything derogatory to Mr. Corkhill. As I said before, he is a pleasant gentleman, but I would like to state in this connection that Mr. Bliss volunteered to me, I think as early as the first interview that I had with him, the statement that Mr. Corkhill was to be removed the next day. "Indeed," said he, "MacVeagh is waiting for me now down stairs with a carriage. I am going to see President Arthur, and Mr. Corkhill's successor will be appointed to-morrow. Mr. Corkhill is a man whom the Government cannot repose any confidence in, and they must not have him there."

Again, in his testimony, page 222, Mr. Bliss says something about route 40101 not being a good case for the Government to take up, for the reason that it depended wholly upon my testimony. I have already stated that there were three other witnesses in that case besides myself—McDonough, Hinds, and U. E. Fisher. Hinds had made an affidavit setting forth what he knew about the case, and I understand that Fisher also had made an affidavit.

Q. That case was embraced in the information filed, the first proceeding had?—A. Yes, sir; route 40101 was the basis of the information.

On page 223 Mr. Bliss was asked the question:

Q. Do you know whether that claim of Walsh's for the extra month's pay has ever been paid?—A. No, sir; it has never been paid; it is in litigation in the Court of Claims, and from what I learn of the evidence I apprehend that it never will be paid.

Q. Did Walsh demand that pay in consideration of testifying before the grand jury?—A. I cannot say as to that. I had nothing to do with it. I know that he did time and again insist upon it to me that he should have that pay, and that that matter should be arranged before he went further; but all that was later, at a time when I was settling the Prescott and Santa Fé case.

Now, of course, here is the objective point in this, and it is a material point. He says, "I knew nothing about it," and he expresses the opinion

that it should not be paid. I had spoken to Mr. Bliss about it. I had said to him, "If you have the leisure, Mr. Bliss, I would be very much obliged to you if, in justice to me, you would look into the merits of my claim for the one month's extra pay, and if you find there is any merit in it, I would like very much to have you say that it ought to be paid." He said he would look into it. I don't know whether he did so or not. I spoke to him once again about it, and I saw that he had not looked into it up to that time, and I concluded that he would not. After I came here and testified before the second grand jury, a long time subsequent to this conversation with Mr. Bliss, I was approached by Mr. P. H. Woodward, of the Post-Office Department, who called to see me at Wormley's, and stated that Mr. Bliss had said to him that he had examined this claim for the one month's pay, and believed that I was entitled to it in law and justice, and that he, Bliss, would see that it was paid. That was on his own motion, in response to no request of mine *at that time*. I had long before given up the idea that Mr. Bliss was going to do anything about the matter. However, I told Mr. Woodward that I was very much obliged to him. In the mean time I had filed a suit against the Government in the Court of Claims, and at the time Mr. Bliss sent me this word my claim was pending before the court in that suit. After I testified before the traverse jury, and about the time I was thinking of leaving here, I met Mr. Bliss; I said to him, "I am very much obliged to you for having looked into that claim, and said that it ought to be paid. Don't you think the time to pay it has about arrived?" "Well," said he, "Walsh, I do not think it would be wise to pay you now, until the verdict is had in this case." Said I, "I can't see why not." "Well," said he, "I think you will on reflection."

When the case reached a verdict—that extraordinary verdict which was rendered by the first traverse jury—I again spoke to Mr. Bliss about the claim and he said he would see about it—that he would "see about it." I thought then that perhaps he had changed his opinion as to the payment of it. However, I went off. When I next met Mr. Woodward he said, "Walsh, I feel very much embarrassed at meeting you." I said, "What about, Woodward?" "Well," said he, "the lack of faith towards you." "In what way," said I. Said he, "I have reference to that extra month's pay." I said, "Why does that weigh on *your* mind, Woodward? That is Mr. Bliss's responsibility." "Well," said Woodward, "he spoke about it and sent me to you to tell you that he had looked into the matter and that it ought to be paid, and the other day when I asked him about it he said to me, 'Mr. Woodward, I am not sitting up o' nights looking after Walsh's interests just now. He has seen fit to go into print and to abuse me in the most outrageous manner, and if he ever gets his pay it will be through some other means.'" I merely mention this in connection with Mr. Bliss's statement that he knew nothing about that claim of mine. You can of course examine Mr. Woodward on this point, and I hope he will corroborate me.

Now, I will call your attention to a portion of Mr. Bliss's testimony, which will show you the pertinency of the statement I have made here in relation to offers of payment that I have received. On page 224 I find the following:

MR. MILLIKEN. If you have already testified on that point in my absence you need not go over it again.

THE WITNESS. I have stated the reasons why the Dorsey case was the best case to begin with. As to this other case I think there can be no question that Mr. Walsh did at that time make assertions which implied corruption on the part of Mr. Brady, but I regarded Walsh's statements as certain to be contradicted by Brady; and then when

you came to the circumstances of the case my idea was that the record evidence as to that route was not so strong as the evidence in regard to other routes which we were investigating, and I regarded Mr. Walsh as in this position—that if the transaction was truthfully stated by him, and if Mr. Brady thought that he was in danger from Walsh's testimony, the probability was that if we took up that case Walsh would take a trip somewhere before we got to the trial, and we would be left without any evidence. In other words, that he would collect from Mr. Brady the twelve or fourteen thousand dollars that he was claiming of the Government, or perhaps more, and would disappear. We would be resting in that case entirely upon a single thread, the testimony of Walsh, and for these reasons I did not think that a proper case to put ahead.

In the light of events Mr. Bliss does not appear to much advantage as a prophet, because "Walsh" has not disappeared, but has been here, to Bliss's great pain and sorrow, and will continue to be here. On page 230 Mr. Bliss, defending himself for having selected the weakest case and accounting for the verdict in the Brady-Dorsey case, says:

But by taking this variegation of frauds we got the benefit of that, and we got the benefit also of Walsh's testimony as to the transactions which had been alleged in the Prescott and Santa Fé route, but the jury did not believe Mr. Walsh, either.

Now, gentlemen, it never was any part of Mr. Bliss's plan to have me appear as a witness in the Dorsey-Brady case. In that case I was never considered as a witness at all, and I was called as a witness at last simply because when the case as he had made it up and had gone into court with it, was about to be dismissed, Mr. Merrick accidentally discovered the nature of the testimony that I had given before the grand jury and came to the conclusion that I was the witness that could save the case.

By the CHAIRMAN:

Q. Were you before the grand jury in the Brady-Dorsey case at all?—

A. No, sir; I knew nothing about it. The evidence that I gave before the first grand jury Mr. Bliss suppressed from Mr. Merrick, so that, as I have already stated, Mr. Merrick had no knowledge of it until it came to his ears in the most accidental manner.

By Mr. STEWART:

Q. How do you know that?—A. Mr. Merrick told me.

By Mr. FYAN:

Q. Were you subpoenaed to appear before the petit jury?—A. No; I think I was subpoenaed to appear before the second grand jury, and when I arrived here I was served with a subpoena to appear before the traverse jury.

Q. Were you subpoenaed before you saw Mr. Merrick?—A. No, sir.

Q. You have stated that the case was *in extremis* when Mr. Merrick found out what you had testified to before the grand jury; now, I want to know whether you were subpoenaed as a witness in that case before the petit jury before Mr. Merrick found that out?—A. No, sir. I think I was subpoenaed to appear before the grand jury. I came over here to see my attorney, Mr. Hine. Mr. Merrick sent Mr. Woodward to me at the Arlington to ask me to call upon him, Merrick. I declined to do so, saying that I did not know him, and had no reason for calling upon him. Mr. Woodward then said, "Will you receive Mr. Merrick?" I said I would, and Mr. Merrick called. To the best of my recollection I was not under subpoena at all at that time.

By the CHAIRMAN:

Q. And, at the request of Mr. Merrick, you appeared as a witness?—

A. No, sir; I would not appear at his request. I told him that the

weakest case had been selected, that the case was *in extremis*, and that by appearing as a witness I could not save it; and I told him it was not fair to ask me to appear as a witness in that case.

By Mr. MILLIKEN:

Q. With what object do you think Mr. Bliss selected the weakest case?—A. I set forth my views on that point in my first letter to the President, and if you will allow me, I will refer to that letter and read it.

Q. You can answer the question without reading that letter.—A. Well, I think I said that, in my opinion, he selected that case because he thought he could gain political capital thereby; he could pose as a prosecutor of the secretary of the national committee of the Republican party, thereby securing considerable *éclat*; while at the same time he knew that the case could not be sustained; that an acquittal was inevitable, and he believed that that would result to Mr. Bliss's credit.

Q. Do you mean to give the impression here that Mr. Bliss was in sympathy with the defense in those cases?—A. Well, is it fair for me to answer that question? You are asking a man whose convictions you know are pretty strong upon that point.

Q. It is fair if you wish to answer it. I shall not press you for an answer if you decline to give it.—A. Oh, I do not decline. I have not come here to decline anything. But at the same time I wish to deal fairly with everybody. My opinion of Mr. Bliss is on record, but I have no objection to stating it again. I have been putting it on record for a long time, and I am willing to put it on record once more. I have no sort of doubt that Mr. Bliss was in sympathy with the defendants from the beginning; and I think that therein he has done the President great injustice, because he has been held out as the President's intimate personal friend; he has paraded himself as such, and has made people believe that.

By the CHAIRMAN:

Q. Is there any further comment that you desire to make upon Mr. Bliss's testimony?—A. Mr. Bliss made a reference to me in connection with his account of how they looked for me, which is calculated to make an unfavorable impression. He says that a lady aided them in discovering me. I would like to state, in relation to that matter, that I was subpœnaed three times for the Government. The first time the subpœna was served on me by a deputy marshal in New York. I had heard of him going to several offices in a mysterious manner looking for me, and I think he finally went to Judge Grandin's office, and said he was looking for me. Judge Grandin told me of it, and said, "What do you think you had better do?" Said I, "If he comes here with a subpœna, tell him to leave it here for me; I will answer the subpœna." However, he did not do that, and being up in the vicinity of the City Hall next day, I went into the marshal's office and said, "Is there a subpœna here for me? I understand that somebody has been looking for me very anxiously." They said "Yes; do you acknowledge the service?"

The second time I was served by Mr. Newcomb, in the office of Judge Grandin. Mr. Newcomb came in and said, "Is this Mr. Walsh?" I said, "Yes." "Here is a subpœna for you" said he, and I received it.

The third time was while I was corresponding with Mr. Merrick, and when I declined to appear before the grand jury with Mr. George Bliss as the representative of the Government. I had been talking to some acquaintance on Broadway, quite close to the corner of Broadway and Wall street, and when we got through I walked down to the Battery,

and there got on an elevated train. The gentleman who served the subpoena told me afterwards that he had followed me all the way up, and when we got to one of the up-town stations he procured some ink and filled in the date and served the subpoena.

Now, I do not see wherein a lady could have aided Mr. Bliss or his assistants in any of these cases.

By Mr. MILLIKEN:

Q. I suppose if she was really a lady there could not be any objection to the remark. I do not see how that would cast any imputation upon you?—A. In this way: The statement was that the "lady" was taken out sleigh riding by some person who wanted to find me to serve a subpoena upon me. Now, process-servers are not persons of a class with whom ladies usually go out sleigh riding. I know of no lady acquaintance of mine who would go out sleigh riding with a process-server.

Mr. MILLIKEN. Some of the men who serve court processes are very respectable gentlemen.

The WITNESS. Undoubtedly they are in the rural districts; but process-servers in cities, and especially in the city of New York, and more especially the class of persons that Mr. Bliss would probably select for that business, would not be likely to be such as a lady would go out sleigh riding with. However, the material point, perhaps, is that the Government had to pay for a sleigh ride for somebody.

On page 301, Mr. Bliss, speaking of the grand jury, says:

After that Mr. Walsh was put before the grand jury (I do not remember the time exactly), and gave evidence and produced certain papers. [That grand jury was in June, 1882, to the best of my recollection.] As the result of that at that time before that grand jury, as I recollect it, the only mention of Mr. Kellogg's name that was made was in connection with the production of these papers. We were going for Brady and Price. Certainly, when I went into the grand-jury room I had no idea that there was any question about Mr. Kellogg in the case. In the course of that meeting some of the jurors asked Walsh about certain papers, and as to where he had got them—the Price drafts, I think—and he said that Mr. Kellogg had brought them to him. I confess that the mention of Mr. Kellogg's name at that time did not convey to my mind the idea of Senator Kellogg.

That, of course, is unqualifiedly untrue. He knew perfectly well whom I had referred to. The best evidence that he did know who it was, and that he must have known, is found in Attorney-General MacVeagh's testimony, on pages 26 and 27, where he says that he knew of Mr. Kellogg's relation to the cases before the death of President Garfield. It is not possible, I think, that Mr. MacVeagh could have had knowledge of it and Mr. Bliss have remained in ignorance of it.

The CHAIRMAN. Mr. Gibson also testified that he informed Mr. Bliss of it.

The WITNESS. I did not know that. Mr. Bliss does all he can to prejudice me in the minds of this committee.

On page 302 he goes on to say:

He was pressed a good deal by the defense in that case, they claiming that his whole evidence was untrue. He said that this difference of dates arose from a mistake of his lawyers. Then he had commenced attachment proceedings in New York, and the same error was found there; and finally he said that he did not tell his lawyer any more than he thought it was necessary to tell him—that that was not his way. He made this statement to the grand jury.

Mr. Bliss, you see, was trying to discredit me even before this committee. I presume that he felt that he was paid to do that. Now, in relation to the matter of the discrepancy between the bill of particu-

lars filed here and the bill filed in New York, I call your attention to the testimony in the first star-route trial, page 1777, where I produced a letter which I had received from my attorney in Washington, Mr. Hine, on which I based my attachment proceedings in New York. I had written to my attorney here to send me a copy of the bill of particulars as filed here. He sent me this one [producing a paper]. I produced this in court. I had stated on the day previous, in court, that the error had been committed by Mr. Hine's son. It was a clerical error, and I was as much surprised at it as anybody. Among my papers in New York I have Mr. Hine's letter inclosing me the copy of the bill of particulars, and on the Monday following I brought it into court. This Mr. Bliss carefully refrains from alluding to.

Here is the bill of particulars which was sent me by Mr. Hine :

BILL OF PARTICULARS.

Thos. J. Brady to John A. Walsh.

1879.		
July 21.	To cash loaned.....	12,000 00
	(To interest, &c.)	
1880.		
Jan. 7.	To cash loaned.....	12,000 00
	(To int., &c.)	
Apr. 8.	To cash loaned.....	13,500 00
	(To int., &c.)	
July 20.	To cash loaned.....	5,400 00

CREDIT.

1879.		
Nov. 8	.....	300 00
Nov. 19	.....	4,700 00
		5,000 00

I will pass over some passages in Mr. Bliss's testimony that I had marked for comment.

On page 304 he says :

Mr. Walsh has since so conducted himself that Judge Wylie did not hesitate in court last fall to express the opinion that he did not suppose the Government cared anything for the testimony of such a witness, and that all they could want from him was his papers. In a bearing the other day in court that was reiterated substantially by Judge Wylie, and Mr. Merrick, representing the Government, substantially the same view, saying that he wanted Walsh, not for his testimony, but for the papers, and he referred to Walsh as possibly writing from a lunatic asylum, or something of that sort.

Well, I have dealt with that. I don't think the court ever said any such thing; but even if the court did say it, the court is not infallible, and the court has evidently made as great a mistake in that as Mr. Bliss has made, and as Mr. Merrick made when he said that they did not want me, but my papers. The Attorney-General, who I think is quite a good lawyer, took a different view, you know, and said that they wanted *me* as well as the papers.

Mr. Bliss says further :

Those papers I have never seen. I think there was an error committed in the case, and I do not think I should have committed it. When Walsh produced those papers before the grand jury I should have impounded them.

You will understand that Mr. Bliss is here insisting that Mr. Ker ought to have "impounded" those papers. Now, Mr. Bliss himself did not impound them. Those papers were before him when I appeared before the second grand jury; they were before him in the first grand-jury

room also, if he had chosen to look at them, and he did ask me for some of them, and I left them with him, as this letter will indicate.

NEW YORK, June 22, 1881.

GEO. BLISS, Esq.,
Assistant U. S. Attorney, Washington, D. C.:

MY DEAR SIR: Oblige me by returning the letters, &c., that I left with you when last in Washington. Deeming it possible that you will be here Saturday, I would suggest that if you will bring them with you I will call at your office for them, as I dislike trusting them to the mail.

Yours respectfully,

J. A. WALSH.

In response to that letter Mr. Bliss gave me my papers. So you see that when he had the papers he did not impound them any more than Mr. Ker did. Of course, there was no occasion at all to do it, because I was acting in perfect good faith, but if Mr. Bliss thought there was occasion you see he did not do any more impounding than Mr. Ker did, and it was not fair for him to cast any such reflection upon Mr. Ker.

Again, referring to the difficulty of finding me, Mr. Bliss says:

He has always been very troublesome to find. Mr. Merrick went to see Mr. Grandin, and finally told him that he wanted to see Walsh, and Grandin said he would try to arrange an interview. Mr. Merrick then came to my office, and we talked over the whole business of Walsh. I said, "Look here, Walsh's trouble is me; now let me stand aside; I will go out of the case in any form you wish; you may give him any assurance you desire that I am entirely out of the case. I will submit to anything, except public degradation in connection with the matter."

Now, the trouble was that Mr. Merrick could not give me any such assurance, because Mr. Merrick did not seem to be able to keep his promises. My attorney communicated to me the information that Mr. Bliss would no longer appear in the case, but there had been so many assurances given me already, and none observed—Punic faith all the time—that I concluded to take no more assurances, and I never did take any assurance that Mr. Bliss was out of the cases until the Attorney-General sent me word to that effect at Montreal through Mr. Brewster Cameron. I didn't even take the press reports.

There is another passage in Mr. Bliss's testimony in which he refers to me in connection with the matter of money, on accounts which I presented for a large amount—an amount so large that it would be liable to disturb the Treasury balance—so Mr. Bliss was unwilling to have it paid.

On page 308 he gives this testimony:

He said in substance, "My contract was not taken away through any fault of mine; it was taken away because of the wrongful action of the officers of the Government, and therefore I am entitled to this month's extra pay." That was the plausible way in which the claim was put in the Court of Claims. All that was ever said to me on that subject—I will not say that it was said to him, but I have understood it was said—was that the Government would facilitate getting a decision on the subject. Mr. Walsh made various claims, and demanded various payments. For instance, I have got here a letter of his dated New York, October 26, 1882, in which he says:

G. BLISS, Esq.,
Special Counsel Star-Route Cases, New York:

MY DEAR SIR: You will oblige me by directing payment to me of the \$350 for which I submitted to you a voucher in Washington.

This is what he calls the voucher:

United States to John H. Walsh, Dr.

To services rendered in star-route cases..... \$350

Q. Did you pay that?—A. No, sir.

Q. What is the service for which that bill is made?—A. I have not the remotest idea. I think the claim was for being in Washington here.

Q. It is not paid yet?—A. No, sir.

H. Mis. 38, pt. 2—33*

You will remark that Mr. Bliss here says that he hasn't the remotest idea what that account was for. Now, I will tell you what it was for. After I had testified before the traverse jury in the first Brady-Dorsey case and had been discharged I was about to leave Washington, when Mr. Merrick called upon me at Wormley's, where I was stopping, and said, "Mr. Walsh, when are you going?" I said, "I think I shall go to-night or to-morrow morning. It is very warm here, and I am tired and very badly disgusted, and I want to get away as quickly as I can. You have had me under subpoena a long time." Mr. Merrick said, "Now, Walsh, you do not want to go away; I wish you would not go; it is particularly desirable in the interest of the Government that you should not go. I want to talk to you in reference to certain persons that are going on the stand in behalf of the defendant, for I cannot cross-examine them intelligently without having somebody to talk to. Stay here, and whatever your charge is it will be paid you." I demurred. Mr. Merrick said, "They are going to bring other witnesses on the stand to contradict you, and really you ought to stay here." He put the case very forcibly and I did remain, and when I got ready to go away, or perhaps later, I rendered this bill to Mr. Bliss, saying, "Here is a bill which I think the Government owes me; I have put the amount at \$350. If it is not enough increase it; if it is too much cut it down." I had no idea at that time that the lawyers were getting such enormous fees. Mr. Bliss said, "It is enough." I said, "Will you pay it?" "Oh, yes," said he, "it will be paid." "All right," said I. Mr. Bliss said it would be paid, but he did not say when. I let the matter drop for the time, but two months afterwards, on October 26, as you will see by that letter, not receiving a check for the amount, I dropped Mr. Bliss a line about it. I never heard anything further from him on the subject. He never answered my note. I came over here under subpoena to go before the second traverse jury and before the third grand jury, and Mr. Woodward said, "Mr. Walsh, I have just learned with the greatest surprise that you have not been paid that \$350." "Oh," said I, "are you really surprised at that, Mr. Woodward?" He said, "Yes, I am astonished." "Oh, well," said I, "I suppose the Treasury reserves will be disturbed by any such payment as that; I do not think the Treasury is in a condition now to meet such an enormous claim." Mr. Woodward said, "That is facetious; but Mr. Bliss is paid very largely and he is paid largely for the purpose of paying just such bills as that." "Well," said I, "Mr. Woodward, I don't care what Mr. Bliss is paid for or what he is not paid for; Mr. Bliss shall not pay me that fee; I shall be paid that by a check on the Treasury or not at all. Mr. Bliss can pocket his own fees, but I am no appendage of Mr. George Bliss or anybody else." "Why do you take that view of it?" said Woodward. I told him that I took that view out of regard to my own dignity and self-respect. I said to him, "You don't think that I am taking money from Mr. George Bliss, do you, for my services? What I receive I shall receive from the United States." "Well," said Woodward, "Bliss doesn't seem to want to pay you at all." "Well," said I, "he can't pay me in that way." I happened in Mr. Merrick's office on one occasion and he said, "Walsh, I feel very badly about that \$350 not being paid you." "Well," said I, "I feel badly too, but what are you going to do about it?" Said he, "I have talked with Mr. Bliss about it; I learn with surprise from Mr. Woodward that you had not been paid and you certainly ought to be paid. I said, 'I think so, and I am ready to receive the money.'" Said Mr. Merrick, "I told Mr. Bliss that we ought to pay that; that each of us ought to contribute to its

payment, but Mr. Bliss says that he does not consider that he ought to contribute anything; he considers that the Government owes you that money and the Government should pay it."

I said, "Mr. Bliss is singularly correct about that. The Government does owe it, or else nobody owes it." Mr. Merrick said, "No; I think we ought to pay that." Said I, "No, Mr. Merrick; Mr. Bliss is right about that. I do not agree with you." Said he, "And if you say so I will give you my check for my share of it." I said "No, sir; keep your money; reserve it for charitable purposes; the United States owes me that money and when it is ready to pay the money I will receive it, and if the United States does not pay me I will sue it." Said he, "I think you are wrong;" but I insisted that I thought I was right. Now, you will see from that whether Mr. Bliss knew anything about this claim or not. The money remains unpaid to this day. When I came here and read this statement of Mr. Bliss putting me in this attitude with reference to this matter, I went to Mr. Merrick and said, "I have learned with surprise that Mr. Bliss in his testimony has made a reference to that \$350." Said he, "I have not read his testimony." Said I, "You ought to read it, for many reasons." I think he ought, too. I called his attention to this statement made by Bliss, and he looked at it and said, "That is bad. That is bad." "Now," said I, "Mr. Merrick, the time has come when that ought to be paid. Its payment will be the most complete refutation of Mr. Bliss's statement," and I added, "Here is the bill; will you approve it?" Mr. Merrick took the bill cautiously, as if it were dynamite, and said, "Yes, that bill ought to be paid." Said I, "Yes, I think it ought; it has been due now pretty nearly two years." "Well," said he, "that is all right, Walsh;" handing me back the bill. Just at that moment Mr. Woodward came into the office and his coming seem to be a source of relief to Mr. Merrick. He turned to Woodward and said, "Woodward, you know about that bill of Walsh's?" Mr. Woodward said, "Yes; that bill ought to be paid; it ought to be paid *now*." Mr. Woodward, you see, not being a great man, knew that it ought to be paid *at once*. [Laughter.] I said, "Will you approve the bill, Mr. Merrick?" Said he, "I would rather not, Walsh; I would rather not; but there is no doubt the bill will be paid." I said, "It is not the money I care about particularly, but does it not occur to you that in justice to me there ought to be something done about it?" Well, Mr. Merrick did not approve the bill. I went up to see Mr. Cameron, at the Department of Justice and asked him what was necessary in order that the bill might be paid. He said that Mr. Merrick's approval would be all that would be required. I then wrote Mr. Merrick the following letter:

WASHINGTON, May 7, 1884.

Hon. R. T. MERRICK, *Wash'n*:

MY DEAR SIR: I have seen Mr. Brewster Cameron since seeing you yesterday in relation to the matter of the Government's indebtedness to me for services rendered as per account shown you by me yesterday, which voucher you will please find inclosed. As Mr. Geo. Bliss has referred to the matter in his testimony before the Springer committee (p. 308), I think it is due me that I should now be paid. Mr. Cameron informs me that all that is necessary to secure payment of the said account is your approval. In justice to me, I beg that you give the voucher your approval, and oblige, yours respectfully.

J. A. WALSH.

I have never received an answer to that. I suppose I shall have to litigate for my money.

In reading over the testimony of Mr. Bliss, I find the most glaring inconsistencies in different parts of it, and if Mr. Milliken has no objection I will rapidly recite some of them.

Mr. MILLIKEN. You may recite them all so far as I am concerned.

The WITNESS. On page 191 Mr. Bliss lauds Price as a man from whom valuable testimony was to be obtained. He says that his, Bliss's, theory was to prosecute the officers of the Government and give immunity to contractors, and so on.

On page 210 Mr. Bliss expresses himself as being opposed to granting immunity to Price for the purpose of indicting Kellogg.

On page 241 he says, "I differed with my brethren (about Price), and while Price's testimony might be morally convincing, it would not secure the conviction of Kellogg.

Again Mr. Bliss says, the money did not go to Brady; that is, Price would so swear, yet Kellogg, who according to him did get the money, was not indicted, and Brady who did not get it, was indicted.

On page 212 Mr. Bliss says his impression was that Brady did not get any of the money in the case of the Corpus Christi route, the orders having been obtained by political influence. Then, if Brady did not get any of the money, why was he indicted in that case?

On page 303 Mr. Bliss again says that he was opposed to giving immunity to Price. On the same page, farther down, when he heard of the production of the additional papers and what was in them, he says, "I stated to the Attorney-General, &c., &c., it was proper to let go of Price and proceed against Kellogg, and have not changed my mind or view on that subject."

Now, let us see whether he changed his mind. On page 304 he says, "The Kellogg case was one that the Government ought to proceed with." In an interview in the New York Herald of May 2, 1884, Mr. Bliss says:

It is a well-known fact that I did not favor the indictment of Kellogg. My reason for not doing so was that in the effort to convict Kellogg we would have to promise immunity to Price, and I did not think we should do that.

In reference to the Kerens case you will find the same. Mr. Bliss, in making his apology to me in the ante-room of the grand jury, told me that Mr. Kellogg had admitted his guilt to him, Bliss. He also told the same thing to Mr. Merrick and Mr. Ker. In an interview published in the New York Tribune June 16, 1883, Bliss said:

There are some strong elements in the case against Brady and Kellogg, but I have always thought that when that case came up for trial some of the best testimony would have been spirited away.

Mr. Bliss was there referring to me. I have also heard that he suggested to Mr. Merrick, during the first star-route trial, that the case against Dorsey should be dismissed, and that the suggestion excited considerable feeling on the part of Mr. Merrick. I have been told by a newspaper man that Mr. Merrick told him that Secretary Chandler had called upon him, Merrick, and asked that he should desist from his prosecution of Kellogg.

By Mr. FYAN:

Q. Who is that newspaper man?—A. Mr. Nelson.

By the CHAIRMAN:

Q. You have said that Mr. S. B. Elkins came to you early in these transactions, which you have detailed here, and desired you to pay Mr. Hinds a certain amount of money?—A. Yes.

Q. Will you explain what interest Mr. Elkins claimed to have in the matter?—A. Mr. Elkins did not claim to have any particular interest.

Q. Whom did he represent?—A. Oh, he said that he came in the in-

terest of Brady. He said, "I am a friend of Brady's, Mr. Walsh, and I would like to see things go along amicably and peaceably. Congress is in session, and, in a resolution of two lines, or not to exceed four, perhaps, they may abolish all this expedition, and then where will you get your money from? You certainly won't get your money that way. Now hadn't you better placate this man?" I said, "Mr. Elkins, I cannot look at the matter in that way. The proposition is such a monstrous one that I should pay a large sum of money to a man whose firm owes me a great deal of money already." "Oh," said he, "that is not the way to view it. Divest yourself of that view, Mr. Walsh." "Well," said I, "I won't pay the money." "Well, then," said he, "there will be trouble."

Q. Was Mr. Elkins interested in any of the contracts?—A. Not so far as I know.

Q. Did he state that he had any interest in them other than your interest or the public interest, or Brady's interest? Whom did he say that he represented?—A. Oh, he was speaking generally. Contractor Kerens was generally supposed to be friendly with Mr. Elkins, but Elkins did not say that he had any particular interest in the matter.

Q. He came to you as a friend of Brady?—A. Yes; he came as a friend of Brady, and also in the general interest of all parties having those contracts, feeling that it would be very unfortunate to have any conflict arise at that time lest Congress should rescind the whole matter. He suggested that that might be done in a very short resolution not to exceed three or four lines, and that then I wouldn't get my money. I replied, "Really, Mr. Elkins, I cannot take that view of it." "Well," said he, "I am sorry." I said, "I am sorry too, but I cannot do it." I had no previous acquaintance with Mr. Elkins; he merely knew me by sight and I knew him by sight. That was all.

Adjourned.

WASHINGTON, *June 5, 1884.*

The committee met at 10 a. m. The chairman called attention to the necessity for a decision of the pending question as to the admission of the letters offered by the witness, John A. Walsh, as a part of his testimony. After examining the letters, the committee decided to admit the letters, which are as follows:

MR. WALSH TO MR. MERRICK.

NEW YORK, *November 6, 1882.*

Hon. R. T. MERRICK,
Special Counsel, &c., Washington, D. C.:

SIR: As special counsel for the Government, I call your attention to the following extracts from a letter written by Mr. F. H. Fall July 12th, '82, he being at that time in the employ of the United States, addressed to Brewster Cameron, special agent of the Department of Justice: "1. The grand jury has, as I have intimated, gone back on the Government and found no indictment." "2. It means that Brady, Kellogg & Co. have fixed some of them, as indicated through the information I have received from Lemar," &c.

I find the above printed in the N. Y. Times of even date. The grand jury referred to in this communication is the same body that is now travestying justice in the District of Columbia, and the same that failed to find indictments on the oral and documentary evidence submitted by me to them, thus by their action endeavoring to stamp me as a witness unworthy of belief. If the language used by Mr. Falls in this letter means anything at all, it implies that this officer of the Government had some evidence—perhaps had submitted the same to the Department of Justice—going

to show that the grand jury had been tampered with, &c. As I have insisted on an investigation of this grand jury, as is evidenced by my letter to Hon. Benjamin Harris Brewster, of 3d inst., I regard the statement of Falls as very pertinent, and if properly inquired into calculated to aid in the discovery of the methods and the names of the persons that engaged in the conspiracy to thwart the ends of justice.

As the examination of Falls may begin to-day, or in the near future, will you direct or suggest to the gentlemen engaged in the prosecution that Falls be examined as to that part of his letter to Brewster Cameron hereinbefore quoted? I address you this communication for the reason that I understand this matter of the prosecution of the bribery cases is under your control and direction.

Respectfully,

J. A. WALSH.

P. S. Who is the Lemar that is referred to by Falls?

WALSH.

¶ (Indorsed :) Letter to Hon. R. T. Merrick, dated Nov. 6th, '82, to which I received no response.

NOTE.—(Not contained in the *original*, however.) The Lemar referred to by Fall in his letter was a member of the (in) famous grand jury "composed of citizens of eminent respectability."

MR. MERRICK TO MR. WALSH.

DEPARTMENT OF JUSTICE,
Washington, December 16, 1882.

MY DEAR WALSH: I have been much disappointed not to have seen you here before this date.

I am now ready to vindicate you and to maintain by confirmatory proof the truth of your statement in court.

Your presence is required on Tuesday before the grand jury, which is, by the way, composed of men of high standing and intelligence. I have requested Mr. Bliss to have a *subpœna* sent on for in New York, that your expenses, &c., might be paid.

Truly yours,

R. T. MERRICK.

(Indorsed :) Letter from R. T. Merrick. Dec. 16, '82. Answered by me Dec. 19, '82.

MR. WALSH TO MR. MERRICK.

NEW YORK, December 19, 1882.

Hon. R. T. MERRICK,
Washington, D. C.:

MY D'R SIR: Yours of 16th inst. at hand and contents noted. To be frank with you, I scarcely know what you mean when you say that you are "ready to vindicate me," &c., &c. Has it reached a point, even in your mind, when I am in need of vindication "by confirmatory proof"? I do not think so, but if I felt that I needed vindication I know of no one to whom I would rather intrust it than yourself.

The only vindication that is needed, from my stand-point, is the vindication due justice and common decency by prosecuting the conspirators on the late grand jury, and especially by the prosecution of that member of the late grand jury who brought into the jury room, in violation of the statutes, the Kellogg-Spofford testimony.

You have the evidence in your possession going to show how cruelly I have been libelled by Buell, Gorham, Dickson, and Helm; consequently do not need my presence to prove it, as documentary evidence thereof is in existence, and, as I said before, in your possession.

You say "Your (my) presence is required on Tuesday before the grand jury," &c. I do not know what for, as it seems to me that the prosecution ought to have the witnesses in the cases against Salisbury, Parker, Kerens, Elkins, Sanderson, Patrick, Brown, Andrews, and Colegrove before the grand jury. It cannot be possible that the Government has not summoned witnesses on these cases! Or can it be that the resolution to proceed against these men was adopted so late in the day that the witnesses have not had time to reach Washington? Of course, I know you cannot answer these queries, for the reason that you take charge of the cases only "after indictments are found," but they naturally present themselves to me for the reason that I find it strange that the Government is apparently unable to do anything in these cases unless

I am called upon, and knowing as I do, and as you *must* know, that it is not lacking in deserving objects for prosecution, about whom I know nothing, but of whom it knows much, my amazement grows. Indeed but for the fact that I am not in receipt of the emoluments of office I might be inclined to suspect myself as "of counsel." This might, by some enthusiasts, be considered distinction, but to me it is stale, flat, and very unprofitable. No, sir, you are in error as to my needing any "vindication." The "vindication" is needed for the prosecution, not by me, but I thank you for your kind proffer, actuated as I know you are by none but the kindest and most chivalric sentiments, the more marked for the reason that I have observed no evidence of the existence of either in my official intercourse with the head of the Department of Justice, or your associate, Mr. Bliss. In the event of my going before the grand jury, not for my "vindication," however, I may as well say to you that I will not testify if George Bliss, esq., is to represent the United States in the jury room.

Y'rs respectfully,

J. A. WALSH.

(Indorsed:) Letter to R. T. Merrick, Dec. 19, '82, in reply to his of Dec. 16, 82.

MR. WALSH TO MR. MERRICK.

NEW YORK, *December 21, 1882.*

MY D'R SIR: I appeal to you, as a lawyer and a gentleman, to know whether or not the remarks made by Mr. Chandler yesterday in his opening for the defense are proper? I refer to his strictures on me as reported in the New York Herald of to-day. I beg that you take such action in the premises as you deem proper.

Is it possible, Mr. Merrick, that there is to be no limit to this abuse of me?

Yours, truly,

J. A. WALSH.

Hon. R. T. MERRICK,
Washington, D. C.

P. S.—I am, of course, under the impression that Mr. Bliss, in his opening, made no reference to me, at least it was not reported if he did. Will you be kind enough to let me know whether Mr. Bliss made any statement as to what he expected to prove by me?

WALSH.

(Indorsed:) Letter to R. T. Merrick of date December 21, 1882, to which I received *no response*, his ox not being gored.

MR. MERRICK TO MR. WALSH.

[Merrick & Morris, counsellors, No. 1306 F street.]

WASHINGTON, D. C., *December 30, 1882.*

DEAR SIR: Yours without date, except Dec. 1882, was received this morning.

I have most carefully kept faith with my assurance to you that I would defend and protect you as a witness for the Government in the case which is now being a second time tried.

To obtain evidence in corroboration of your testimony, and thereby repel the accusations brought against your integrity, and at the same time overwhelm your malignant assailants, was, in my judgment, of the utmost importance to you, and a more desirable result than any that could possibly be achieved in executing the obligation I had assumed in your behalf. I had *supposed*, some days since, that I had accomplished this result, but my efforts in that regard have been seriously embarrassed, if not, indeed, defeated, by the unwise course you have pursued, especially in the particular of not granting me a personal interview in accordance with my repeated requests to that effect, and also by the prevalence of a report that you are evading the service of the subpoena which has been issued for you, and that it is your purpose not to testify at the present trial of the case if you can avoid it. This report I do not, of course, credit, but it nevertheless largely prevails, and is doing serious mischief to you and subjecting me to some humiliation.

I fear that you have not fully appreciated my personal consideration for you.

Yours, truly,

R. T. MERRICK.

JOHN A. WALSH, Esq.

(Indorsed:) Letter from R. T. Merrick, esq., dated December 30, 1882. Rec'd by me January 2, 1883, in reply to my letter to him of December 29, 1882.

MR. WALSH TO MR. MERRICK.

NEW YORK, *January 3d*, 1883.Hon. R. T. MERRICK,
Washington, D. C. :

Yours of 30th ult. at hand yesterday p. m. The date of my letter to you, which was omitted by me, was Dec. 29, '82.

To say that I am surprised at the tenor of your letter would be to but faintly convey to you my feelings, after many and careful readings thereof.

You say, "I have carefully kept faith with my assurance to you that I would defend and protect you as a witness for the Government in the case which is now being a second time tried." That the Government has not protected me has been, and is, *part* of the burden of my complaint. If you would be kind enough to indicate to me how and in what way and at what time there ever has been manifested any disposition by the Government through its officials, judicially or otherwise, to protect me, I would feel obliged to you. That *you have felt* something ought to be done in that direction is believed by me, but that any steps looking to such action have been frowned down by your associate, Geo. Bliss, esq., is also believed by me. I have heretofore felt, as relates to your position in this matter, that I would accept the will for the deed; hence did not say much on this subject during the first trial, but have determined as to the future that I shall have some distinct understanding.

You say, "To obtain evidence in corroboration of your testimony, and thereby repel the accusations brought against your integrity and at the same time overwhelm your malignant assailants was, in my judgment, of the utmost importance to you, and a more desirable result than any that could possibly be achieved in executing the obligation I had assumed in your behalf." I would suppose that the Government, in obtaining corroborative evidence, was simply doing that which all litigants aim to do; *i. e.*, presenting the very best evidence and as much of it as can be had. I shall not flatter myself that the Government, in its efforts to obtain this corroborative evidence, was influenced therein solely by its desire to "vindicate" me. This very corroborative evidence that you refer to has been made possible solely and entirely by me, and mainly through my efforts. I might also add, even, at my expense, pecuniarily and otherwise.

It ought not, and ordinarily does not, require assurances from any individual that witnesses for the United States shall be protected. The protection that I referred to was not such as takes the shape of obtaining corroborative evidence, as it goes without saying that such is the end of all properly-conducted prosecutions on the part of the people against criminals. The protection that I refer and referred to, and of which you assured me, *but do not now*, was that protection which the law prescribes, a protection that takes the form of criminal proceedings against men who have criminally libeled a witness for the Government for testifying to the truth in its behalf. That protection, in fine, which assumes definite shape by indicting that member and his coconspirators of the late grand jury who violated the law in order to endeavor to discredit and impeach me. You have the evidence in your possession, or under your control; why not protect me by prosecuting these men? You know the names of the persons, together with all the facts, and I ask you to vindicate the majesty of the law. If you are unable, because of your surroundings, because your associate does not believe in such sentimentalism, avow it, say it is due me, but you cannot accord it me.

A moral verdict of guilty was found by the nation against these men on the first trial, and, without egotism, I may add entirely on my testimony. If being universally credited by the nation and by ten out of twelve jurors is to constitute "protection" for a witness, there never was a witness much better protected than I. Your case against these defendants was a mere nothing, about to be dismissed from court, when my testimony came to stem the tide. Surely, I am not indebted to the Government for that kind of "protection." Now, if through my efforts and at my expense, you are about to get corroborative evidence, why should you term it protecting me, repelling "accusations" made by my "malignant enemies." These men are not my "enemies" personally; they are the "enemies" of all honesty, the "enemies" of the people, the enemies of the United States Government. They have libeled and conspired, not against me but against justice, and I demand of you, in the name of the outraged law, that they be punished. This will be my "protection;" it is all I ask of you as the representative of the Government. If I am asking too much, or if these men are above and beyond the reach of the law, let me be informed thereof, and I will desist from my mad demands.

You say "The prevalence of a report that you are evading the service of a subpoena which has been issued for you, and that it is your purpose not to testify at the present trial of the case if you can avoid it." This report, I do not of course, credit, but it nevertheless largely, prevails, and is doing serious mischief to you and subjecting me to some humiliation.

You are justified in not believing this report, if for no other reason than the fact that I am not an *official*, nor have I lately been appointed to office by the *administration*. Why should I evade a subpoena? Why should I not rather rejoice in receiving one? To be allowed to testify on behalf of the Government at one's own expense is distinction enough, but when that is supplemented with the most robust personal abuse by counsel for the defendants and their organ, "The Robbers' Own," the average mind fails to comprehend the delicacy of the compliment conveyed, in the tender of a subpoena to testify in the case of the United States *vs.* J. S. Brady, Dorsey, *et al.*

No, sir, you are correct in not believing that I am evading service. I am simply awaiting from you the assurance requested of you in my communication of 29th ult. I am not evading service, nor do I intend to. Why you should feel "humiliated" is beyond my ken. You say, in the conclusion, "I fear that you have not fully appreciated my personal consideration for you." You, if you ever harbored such a thought, do me great injustice. Indeed, sir, the only oasis in this awful waste of official corruption, official deceit, and official neglect of duty has been the reflection that you were an earnest, honest prosecutor, and as such you had alone appreciated the character and extent of the sacrifices that I had made in appearing as a witness for the Government.

If during the heat and smoke of battle you have forgotten me I have overlooked it; but if before engaging again in battle I ask that you have a care for my feelings, that you throw around me the protection of that power which you represent, is it asking too much? Do I, by asking of you that these violators of the law be punished, indicate that I have grown weary in the struggle for good government? I trust you do not so reason.

I fear there is some misapprehension existing in your mind as to my status in these cases. As I am neither an officer of the Government nor "of counsel" I fail to understand why I should be called on to sacrifice my time and my money, when I reflect that persons in the employ of the Government and the prosecution have assiduously avoided doing that which they are enormously paid for doing. I marvel that you should expect of me such extraordinary zeal in sending these men to prison. I have not volunteered as a witness in these cases, nor am I an informer. So far as my own personal interests are and were concerned I have given testimony against these men at great loss to myself.

You emphasize in your letter to me the fact that you were engaged in obtaining "corroborative evidence," &c., in support of mine, &c. I was not aware that my testimony had ever been contradicted or impeached. Certainly not in open court. The only attempt at impeaching me was when the late grand jury as conspirators assembled, aided by a Cabinet officer and others, undertook to impeach me by not finding indictments on my evidence. How do you know but that the effect of this impeachment by this body was the cause of the disagreement of the petit jury in the first trial? That such was the object of this impeachment by the grand jury does not admit of a doubt. By the conduct of the grand jury the extraordinary spectacle was afforded the nation of the Government conspiring to impeach its own witness, as the grand jury certainly represents the Government. William H. Dickson, late foreman of the petit jury, is being prosecuted by the Government for attempting to corruptly influence the late petit jury, and I might add very properly. Why do you not likewise cause the prosecution of the men who corruptly influenced the late grand jury? What difference is there in the gravamen of the offense?

I have written the Attorney-General of the United States, as well as President Arthur, requesting that these men be prosecuted. Receiving no reply from either of them I asked you, as Assistant Attorney-General of the United States, and your reply is as set forth in your letter to me of date Dec. 30th, '82, which I respectfully suggest is not an answer to my communication of Dec. 29th, '82.

Assuring you of my kindest regards and highest esteem, I am,
Yours sincerely,

J. A. WALSH.

MR. WALSH TO THE ATTORNEY-GENERAL.

NEW YORK, November 3, '82.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General of the United States, Washington, D. C.:

SIR: In the month of June, 1882, a subpoena was served on me in this city to appear before the grand jury of the District of Columbia to testify in the matter of the U. S. *vs.* Brady *et al.* In accordance with this summons I appeared before the grand jury whose term expired June 30th, 1882. Mr. George Bliss, counsel for the Government, was present during my examination. On my testimony an indictment was

found by the jury by ex-Assistant Postmaster-General Brady and mail contractor James B. Price for conspiracy to defraud the Government of the United States. During the following month, July, 1882, one of the special counsel for the Government in the star-route cases, with whom I had then no acquaintance personally, called on me in his official capacity, and during the conversation recited that which he had heard rumored as having been the tenor of my testimony before the grand jury whose term had just then expired, and asked of me confirmation. I then related to him substantially my testimony, whereupon he expressed the greatest indignation and astonishment at the action of the grand jury in not including in the Brady-Price indictment Senator Wm. P. Kellogg. I inquired of him if this was the first official information he had received of the character of my testimony, and, to my surprise, he said it was.

A few days after this interview the grand jury (a new body) was called together in extraordinary session; indeed, the gentleman, after listening to my recital, said he would have the jury called together immediately. In the mean time I had been subpoenaed to appear as a witness before the traverse jury in the suit of *U. S. vs. Brady, Dorsey, et al.*, and while awaiting to be called, I was summoned to appear before the grand jury of the District of Columbia, bringing with me my books and papers. I was before this body the greater part of two days, giving my testimony and exhibiting original papers, etc., etc., with the result as is known to all the world—a result as insulting to all law and justice as it was mortifying to me, reflecting as it did on my veracity. The purposes of this negative action, *i. e.*, not finding an indictment were, in my opinion, two. First, to the end that a distinguished Senator should escape indictment, and, secondly, to vitiate my testimony which I was to give before the traverse jury in the case of *Brady et al.*, then on trial. That influences of a most potential character were brought to bear on the grand jury to accomplish such a result, unhappily, does not admit of a doubt. Manifestly testimony which was considered ample on which to find an indictment against Brady and Price had not been deemed strong enough to reach a Senator. This was the finding of the first grand jury, whose term had expired June 30th, '82. The finding of indictments against comparative pigmies, the hoi polloi, and allowing official giants to escape had become embarrassing, for some jurors revolted against this system on the first jury, and hence this latter grand jury, to avoid similar complications, determined to indict no person. In order to furnish them, if possible, with something like a reason for not finding an indictment in accordance with my testimony, the conspirators on the grand jury had presented them by their associates outside, for the undoubted purpose of influencing the minds of their fellow members, a copy of the testimony in the case of *Spofford vs. Kellogg*, a contested-election case in which I had testified. My testimony before this jury was direct and positive, and, supported as it was by documentary evidence, simply overwhelming. What could possibly be the reason, then, for the remarkable action of the grand jury? Were they dazed by reason of the high official position of one of the persons against whom my testimony bore most heavily? Or could it be that they concurred with the special prosecuting officers of the Government who, in the grand-jury room, gave expression to the opinion, "that it was a serious matter to indict a Senator of the United States"? Were the jurors influenced by the *Spofford-Kellogg* testimony? Who directed them to inquire into the case of *Spofford vs. Kellogg*? Whether they were or were not influenced by the testimony, the criminal object had in view by those who brought it there was to influence them. Precisely the same object which the prosecution say Wm. H. Dickson had in view when he, as foreman of the traverse jury read to its members his statement of the alleged attempt of the Government to bribe him and for which attempt to influence the minds of the jury he is now being prosecuted. I assert that whoever brought into the room of the grand jury the *Spofford-Kellogg* testimony is far guiltier than Wm. H. Dickson. That this book was there, does not admit of a doubt, as counsel for the Government, Mr. Bliss, will bear me out.

In behalf of justice and of law and of order, I call upon you, as the highest law officer of the Government, to discover who it was that brought into the grand jury-room the testimony in the case of *Spofford vs. Kellogg*; who it was on the grand jury that entered into the conspiracy to protect these men from indictment, and by rendering me despicable, thereby, tending to break down the case of the Government against Brady, Dorsey, *et als.* This is a discovery, sir, which the Government owes me and owes to itself.

You will please recall the condition of the Government's case at this juncture; I mean that against Brady *et als.* To say that it was *in extremis* would be untrue, for it hardly had life enough to die; indeed it was generally understood that a motion to dismiss it would be listened to by the court. A material witness for the Government, indeed an officer thereof, then under subpoena, was moved, as he has said, to go away at this time, for the reason that he was satisfied that the case would be dismissed, and for the further reason that he did not believe the prosecution was in earnest. This gentleman's official, commercial, and social relations with members of the administration gave him exceptional opportunities for informing himself. I take this from

the public prints as going to show the condition of sentiment about the time that this grand jury resolved to protect these criminals. Everything was against the prosecution; hence, how necessary it became to braek me down in behalf of the defendants in court, and those who ought to have been defendants, that were not yet at its bar. As John A. Walsh, I was not personally known to a member of that grand jury; to them I was simply an important witness for the Government, and, as such, and in the interests of crime, they showed their bias against me from the moment that I appeared in the jury-room. Such of them as did not listlessly tilt their chairs against the walls, resolved themselves into cross-examiners in the interests of the person against whom I was testifying, with the apparent motion of trying to exhaust the Government's case in the grand-jury room.

I again repeat that it behooves the Government to find out the person or persons who first informed a member or members of this grand jury of the existence of the Spofford-Kellogg testimony and the member or members of that body who brought it into the jury-room. I emphasize this, not because there was anything in that testimony on which to base such an infamous result, but because it will be the first step toward develoving the conspirators in this case. Inasmuch as this book came from some one of the public libraries, surely it ought not to be a difficult task for this great Government, and such action, believe me, would go far toward evidencing that witnesses for the Government would have at least its moral support, a condition it pains me to say that it does not enjoy, in my mind, at least, for I have yet to see the first evidence of any support of any kind from it. Simultaneously with the extraordinary action or rather non-action of this grand jury, now holding session in Washington, a daily paper of that city, conducted in the interests of the star-route conspirators, gave joyous expression to the information that a grand jury had unanimously refused to believe me on oath. Branded thus by a corrupt grand jury, in furtherance of this conspiracy, as one unworthy of belief, I literally stepped from the threshold of their room to the witness stand in open court, to be there taunted by counsel for the defense as one whom the grand jury did not believe. Such in brief was the character of my introduction to the court, to the traverse jury, and to the people of this country.

I do assure you: sir, that nothing but my own sense of duty and self-respect sustained me in such an ordeal, the most trying of all ordeals for a man of honor. Indeed, while I was on the witness stand, the leading counsel for the defendants asked me contemptuously, "if I was the same Walsh that had appeared before the grand jury?" In the mean time, I was assailed in column after column of the vilest abuse, and that, too, in a paper the control of whose columns it was sworn to in open court was exercised by a man who was then, and is now, the occupant of a lucrative office under the same Government in whose interests I had been summoned to appear as a witness. At this period, when I felt as though this combination of conspirators, composed as it was of the grand jury, the defendants in court, together with such other allies as rumor assigned being in sympathy with these robber barons, were about to crush me I bethought of appealing to that national jury composed of the millions of freemen, who, in their honesty, could not be influenced. Through the medium of a free and enlightened press I addressed myself to this jury, which evidence being weighed has resulted in a moral verdict of guilty against these men. I am convinced that but for the aid extended the cause of justice by the press of this country, these conspirators would have triumphed. I have been informed that you have expressed the opinion that my testimony before the traverse jury saved the prosecution from defeat in a case which special counsel had selected as the strongest, albeit well-informed people never agreed therein with the said counsel. Whether or not I rendered the Government any service in these cases it is not for me to say, but such aid as I have contributed has not been without great sacrifice to me in many ways. Because of my appearance as a witness against these men I have been criminally libelled in the District of Columbia while under subpœna from its judiciary, and I have yet to see the first evidence that the Government intended to protect me. I have never witnessed such terrorism as was exercised against witnesses in this case. I have been informed by counsel that the persons who have been engaged in libelling me are criminally liable, and yet, sir, I say to you in all candor that I am practically unable to obtain the slightest legal redress in the capital of the Republic.

All that I have set forth in this communication, and more, has been printed by the great journals of the country touching the present grand jury of the District of Columbia, and it is in no spirit of sentimentalism for myself alone that I beg of you to take cognizance of the conspiracy which has been entered into by this body. Some member or members of this jury conspired to protect certain people from indictment. This must be obvious to you. If it was really "a serious matter to indict a Senator of the United States," why did they not so resolve and let it go to the world that the Senate of the United States was an asylum for violators of the law? If this jury feared trenching upon the divinity that, in their minds, hedged in a Senator, why not so proclaim, and then the people of this country would know and understand that there was a body of men in the Republic who were not amenable to its laws! Why

endeavor to stamp me with reproach, thus affording aid and comfort to the enemies of the Government whose interests they were sworn to protect?

In giving my testimony against these men I was actuated by no feelings of hostility, and in no sense of the word was I a voluntary witness. As a matter of fact, with the exception of one or two of the defendants, I scarcely had any acquaintance with them, indeed some of them I had never seen until I appeared as a witness, and such feeling as I had was rather of sympathy than otherwise, for as a body I regarded them as petty offenders composed with those who, having had recourse to precisely the same methods of plundering the Treasury of the United States, had gone unscathed, or whose gigantic frauds have since been referred to arbitration, as I have read in the public prints.

Whatever of prestige or material benefit that will rebound to the credit of the gentlemen engaged in this prosecution, none can ever reach me by any possibility. I am painfully aware that thus far I have reaped naught save abuse, and have been made the object of a conspiracy by a body acting under the forms of law, a body supposed to be engaged in conserving the interests of law and order; that this is a fiction, however, their acts have proved. I have endeavored to point out to you wherein I conceive that some member or members of the present grand jury of the District of Columbia have violated the law and their oaths, and I now ask that you, for the protection of the interests of the Government and for the protection of its witnesses, take such steps as will bring to light the extent and ramifications of this conspiracy and prosecute the offenders as the law directs.

Yours, respectfully,

J. A. WALSH.

(Indorsed :) Letter to Brewster.

MR. WALSH TO THE PRESIDENT.

NEW YORK, *December 18, 1882.*

DEAR SIR: Accompanying please find copy of a letter written by me to the Hon. Benjamin Harris Brewster, Attorney-General of the United States, on the 3d day of November, 1882. Inasmuch as I have received no reply thereto, I am reluctantly compelled to address myself to you, to the end that official cognizance be taken of the matters and things set forth in that communication. I submit that the terms of this letter were polite, couched in the most respectful language, to which in all courtesy I was entitled to an answer. This violation of official propriety, to call it by no harsher term, was the more surprising to me occurring as it did in an office whose etiquette, like its embellishments, is popularly supposed to partake of the Renaissance period.

On referring to my communication addressed the Attorney-General you will discover that I have set forth the way, though not as clearly as in this, in which I came to be called as a witness by the prosecution in the star-route cases. You will doubtless agree with me that in testifying I simply obeyed the law, and having obeyed it, by testifying to the best of my knowledge and belief—the tenor of which was held to be very favorable to the Government you will readily comprehend that I do not quite enjoy the role which the prosecution has forced upon me. I am not prepared to be treated as though I were arrayed against the Government. The time has not yet arrived when I am disposed to rest supinely while conspirators, as grand jurors assembled, together with their official allies, impeach my veracity, thus defeating the ends that justice ought and is popularly supposed to have in view. If I am in error as to the ends and purposes of the prosecution, and I beg leave to say, with all due respect, that its ways have been and are devious enough to create doubts in many reflecting minds, the speedier the correction is made the better; but silence on the part of the highest law officer of the Government will not be understood by me as a response to the grave charges made by me to him. I have distinctly stated to the Attorney-General the objects of the conspiracy of the late grand jury. The machinery of the Department of Justice put into proper and judicious motion would have developed the ramifications of this conspiracy, bringing to light the distinguished participants therein. If these men, bound together as they are by the cohesive power of public plunder, are stronger than the State against which they have conspired and are conspiring that fact should at least be known, together with the inability of the Department of Justice to deal vigorously with them.

I will venture to explain to you as briefly as possible the case in point, in order that you may understand the reasons that impel me to address myself to you. In doing so I do assure you that I approach the subject with the greatest confidence in your wisdom and sense of justice as chief magistrate of this nation.

On the 21st of June, 1881, I filed a suit at law in the courts of the District of Co-

lumbia, against ex-Assistant Postmaster-General Brady, one of the defendants in the criminal suit now pending in Washington. The amount of money involved was large, the indebtedness being for cash loaned him by me at various times in my capacity as a banker. On January 14th, 1882, I sued out an attachment in New York against the property of the said Brady. These proceedings having obtained quite a deal of publicity in the metropolitan journals, resulted, I presume, in attracting the attention of the Government toward me. In the early part of June, 1882, I was summoned by the United States to appear as a witness before the then grand jury of the District of Columbia. No one, not even the counsel for the Government, had any idea of the full import of what my testimony was to be, and in the light of events it grieves me to say that had its full scope and bearing been known it is possible the prosecution would not have called me.

I am of the opinion that my being called before the grand jury was an accident, as painful as it was surprising to certain interests. I volunteered no testimony to the grand jury, but simply answered the interrogatories propounded by Mr. George Bliss, who represented the United States in the jury room. The evidence resulted in an indictment for conspiracy to defraud the Government being found by the grand jury against ex-Assistant Postmaster-General Brady and mail contractor James B. Price, but omitting from the presentment the name of Senator Wm. P. Kellogg, against whom by the way, the facts in the case being such, my evidence bore most heavily. Of course, this result was most surprising to me. I do not know what impression it made on Special Counsel Bliss, as I did not converse with him on the subject, but it evidently did not cause him any especial astonishment, as he did not make any mention of the character of my evidence to his associate counsel Mr. Merrick. The term of this grand jury expired in June, 1882. A new grand jury was sworn in with the advent of July, 1882, but, without being organized, was adjourned until October, 1882, special counsel saying there was no business for it, notwithstanding the fact that overwhelming evidence of fraud on the part of sundry mail contractors was then, and is now, in possession of the Government, all of which you can verify by calling on the proper officers.

The fact that Senator Kellogg was not indicted by the jury did not call for any expression of opinion from me, as I had, and have, no personal feeling in the matter whatever. I had simply discharged faithfully a very unpleasant and painful duty. This failure to indict Senator Kellogg was not, on this occasion, heralded to the world as in the second instance, of which we will treat hereafter, as being an evidence "that the grand jury would not believe me on oath," etc., etc. On the contrary, this gentleman and his allies maintained the silence of the grave as to what had occurred in the grand-jury room. Evidently it must have appeared to them that the least said about it the better, as it would not do to say that I was not believed "on oath," &c., &c., for there stood the Brady-Price indictment, against whom my testimony was as nothing compared with that against their Senatorial associate who escaped. I have heard it rumored that Mr. Kellogg's name was actually included in the presentment, but in some mysterious manner took unto itself wings. Suffice it to say, that Mr. Merrick, associate counsel for the Government, called on me stating that he had heard rumors of what my testimony had been before the grand jury, but having received no official information thereof from Mr. Bliss, asked me to recite it to him substantially, which I did. His astonishment was as profound as it was unfeigned, and he told me he would have the adjourned grand jury called together in extraordinary session.

It might be well for me to state here that I had, at that time, no acquaintance whatever with Mr. Merrick. The interview was solicited on his part through a gentleman then, as now, connected with the prosecution, and occurred about three weeks subsequently to my appearance before the first grand jury, whose term expired in June. I was accordingly summoned to appear before the grand jury whose term began in July, 1882. In some unaccountable manner the now allied defendants, in and out of court, having pooled their issues, so to speak, were notified of what was coming. Then it was that their conspirators lighted their signal fires, calling every sympathizer to his post, be his condition policeman, grand juror, editor, merchant, or head of a Department! All, all must come! How well their cohorts responded is fully set forth in my unanswered letter to the Attorney-General, wherein I essay to show the illegal methods resorted to to compass so disgraceful a result. It is known of all men who it was on that grand jury that violated section 5405 of the Revised Statutes by bringing into the jury room the Spofford-Kellogg testimony. Indeed, Mr. President, it is said that a member of your Cabinet gave to a certain grand juror, in violation of the statute, the afore-mentioned testimony. Then it was that the organs of the pooled issues, viz, Brady *et al.* in court, and Kellogg *et al.* not yet there, heralded to the world that, "A grand jury composed of citizens of eminent respectability refused to believe Walsh on oath." This was supplemented by the most infamous abuse of me in the columns of their organs, and that, too, while I was under subpoena from the court.

Senator Kellogg, on the 15th July, 1882, a day or so following the adjournment of

the grand jury that had failed to indict any of the persons against whom I testified, said, in an interview, referring to my testimony: "There was not a scrap of paper or a document of any kind, bill, check, or voucher with my (Kellogg's) name on it. The whole thing is over, but the day of reckoning is coming for the blackmailers." Is it over? Can it be possible, Mr. President, that he knew whereof he spoke? It is not over, for if I have testified falsely against himself and others I have grievously wronged them and should be punished by the law. If on the contrary it be shown that a grand jury conspired with others to shield these guilty men, then those conspirators should be punished. I demand that justice be done me by this Government. It is my right as an American citizen and I shall insist upon it, confident in receiving your support as well as that of every fair-minded man. When Senator Kellogg gave expression to the above he did not for a moment imagine that I would dare print my testimony together with checks, telegrams, and letters of his—papers that carried conviction to the hearts of their readers as to the guilt of these men.

On the 17th of July, 1882, copies of these papers were printed in the N. Y. Herald and N. Y. Times, together with a statement of what had been my testimony before the grand jury that failed to indict him. On July 20th, 1882, the N. Y. Herald published a fac-simile copy of a check drawn by me to the order of Wm. P. Kellogg and by him indorsed, for two thousand dollars. This amount represented part of the twenty thousand dollars of postal drafts, which Mail Contractor James B. Price had paid Senator Wm. P. Kellogg and ex-Assistant Postmaster-General Thos. J. Brady, for corruptly expediting his mail service and enormously increasing his pay on a certain mail route from San Antonio to Corpus Christi, Texas. These drafts were subsequently given me as a banker for collection by Senator Wm. P. Kellogg, one-half for his account and one-half for account of Thos. J. Brady, ex-Assistant Postmaster-General. To the end that I may be perfectly explicit as to the matter, I will state that fifteen thousand of the amount paid by Price was in drafts, known as postal drafts. The other five thousand dollars, going to make the twenty thousand dollars, was represented by a note of James B. Price for five thousand dollars, drawn to his own order and by himself indorsed, payment thereof being secured by collateral, consisting of mining stock, together with a note of a certain mail contractor by name of Hugh White, said note in its turn bearing the indorsement of Mail Contractor Monroe Salisbury.

The action of the grand jury that indicted Brady and Price resolved itself into this: The contractor, James B. Price, was indicted for paying twenty thousand dollars to Senator Wm. P. Kellogg for the latter's and Brady's use, in return for the increase in pay, corruptly given him by the Post-Office Department, through the instrumentality of Kellogg, as the negotiator, and Brady, as the official. Thos. J. Brady was indicted for receiving one-half of this amount for his use and benefit. Senator Wm. P. Kellogg, who received the money or drafts and note in person from Price, giving them to me as a banker for collection, and who benefited to the extent of one-half of the amount, escapes indictment. This result caused great discontent among the conspirators who had been indicted and their following. They apparently did not understand why Mr. Kellogg had escaped, and if he escaped why not all? When the second grand jury was called together in extraordinary session, through the sole desire of Mr. Merrick, it was determined by the conspirators that no such illogical presentments would be allowed to come from it. Then occurred the pooling of the issues between the defendants, whose trial was then progressing in the criminal court and the individuals threatened with indictment, to wit, Kellogg, Buell, and mail contractor Petersen, together with many others interested in staying the law's tidal wave. It was then determined by the combined allies that this grand jury, composed of citizens of "eminent respectability," should refuse to believe me on oath, to the end that all might escape indictment, and I being thus discredited by the grand jury, my testimony, which I was to give as against the defendants in court and before the petit jury, would not be believed, in this way removing the only obstacle to their acquittal. While on this subject I will state that, if you desire it, I will take great pleasure in showing you the papers in this case. If after the inspection of letters, telegrams, bank checks, and postal drafts you say there is not a *prima facie* case of the strongest kind against these men I will plead guilty to criminally libeling them.

As to the criminal libels uttered against me by these men, and given currency in the columns of the regular star-route organ and another owned in part by Special Counsel Bliss, I suppose whatever of remedy I have is in the courts. I do not feel, however, that I can school myself to present the cases against these men to a district attorney whom Mr. George Bliss told me, not more than fifteen months ago, was to be removed by you the very next day, because he was not trustworthy, a district attorney whom even the Department of Justice will not trust.

Now, sir, you will understand why it is that these people have warred against me. The unpleasant prominence into which I have been forced, by no action or seeking of mine, is not the least of the many embarrassments which surround me. I trust that you will appreciate why it is that attacked as I have been by these desperate men,

assailed in all that man holds most dear, for no reason other than having been an involuntary witness against them, I feel called upon in response to my sense of duty to the Government, in response to my own sense of honor and manhood, to resist their attempts at discrediting me, in furtherance of the conspiracy to shield guilty men from indictment and punishment.

"When bad men combine, the good must associate; else they will fall, one by one, an unpitied sacrifice, in a contemptible struggle." That the bad men have combined is apparent in the immunity which has, for eighteen months, favored them—an immunity as surprising as it is disgraceful. An immunity explicable only on the grounds that the servants of this great Government are not in earnest in prosecuting these men. Notwithstanding the expenditure of vast sums of money in the accumulation of overwhelming evidences of fraud against these star-route conspirators, it has been allowed to remain unused by special counsel for a year and a half. The results thus far of this unequal war of the people against this band of conspirators, numbering in all probably forty persons, after a contest of two years and the expenditure of hundreds of thousands of dollars, are the indictment of seven of their number and the Cadmean victory obtained by the Government in the ridiculous verdict rendered on the first trial, by the traverse jury, against the aforesaid seven defendants. Even this last result, pitiful and disgraceful as it was, was the result of chance—yes, chance testimony—*i. e.*, testimony not in existence so far as went the knowledge of special counsel when he selected the Brady-Dorsey case as the strongest. The evidence presented in this case, I mean that evidence which guided the special counsel in selecting it as the best one the Government had, appears to have been barely sufficient to give the indictment against the defendants a standing in court, and but for the testimony, which he will designate as chances, this case against these defendants would have been dismissed, would never have gone to the jury.

I have been informed by a gentleman, now connected with the prosecution, that the Government was in possession of evidence against other mail contractors of a character much stronger than that offered by the present case at the time of its selection as the strongest—cases that would not have required chance testimony to save from being dismissed. So weak was the case that the court, indeed, said he was nearly ready to hear a motion for dismissal of the proceeding against the defendants. Was the selection of this case a mistake, an error of judgment on the part of the learned special counsel? Such mistakes are crimes. Could it be that it was expected to carry on a travesty of justice under the disguise of a prosecution? Men's minds are so fashioned, Mr. President, that they cannot resist reasoning, and many very intelligent observers seem to think in this wise, after a careful analysis of events. What, for instance, would have been more plausible than to cause the indictment of the present defendants, comprising an ex-Senator and an ex-Assistant Postmaster-General? Next, the selection of this case as a test one against the star-route ring, on the grounds that it was the strongest (when it was not), submit the evidence to the court and petit jury, apparently doing the best that could be done, and be defeated by the defendants. What renown might not await a distinguished special counsel under such circumstances, who, notwithstanding his party affiliation, heroically rose superior to them and selected for especial sacrifice the secretary of the party's national committee?

These same reasoners, in this strain, think that the shifting of the scenery in this celebrated case clogged when the chance testimony came to be heard, which event very materially changed the aspect of things, for in lieu of Chinese warfare, the rattle of musketry and roar of artillery was substituted, figuratively speaking. At this point in this most remarkable trial it was noted that the defendants, whose wont all through the trial had been to lounge in the adjacent saloons, thereby indicating contemptuously that the State had no case, now came into court and battled for their liberty, barely escaping the iron grasp of the law. The evidence, the chance evidence, that accomplished this, that gave the case a standing in court, was not of record when the special counsel selected this case for the Government's strongest. People inclined to have doubts as to the sincerity of this prosecution, notwithstanding the selection of a target so conspicuous as ex-Senator Dorsey, remember that Special Counsel Bliss failed so far in his address to the jury in making any reference as to the guilt of the defendant S. W. Dorsey that his failure elicited unfavorable comment. Indeed, to such an extent did he carry this avoidance that Mr. Merrick, associate counsel for the Government, in his argument to the jury, referred to Mr. Bliss's omission in language more forcible than courteous and more truthful than either. I omitted to mention as one of the results of this unequal war of justice against these conspirators, the fact, as I am informed that some cases presenting the very worst features in this vast scheme of plunder have been referred to arbitration. In justice to Mr. Bliss I make this correction, as I understand the credit for the acceptance of the arbitration theory on the part of the Government is due him.

The beauties of this system must commend themselves at a glance to every practical plunderer of the Treasury, especially a star-route conspirator, who, on being acci-

dentally brought to bay for defrauding the Government, and on being satisfied that it has the evidence of his wrong-doing in its possession, will simply reply by calling for an arbitration commission, demanding of justice how much in dollars and cents it will take to close her gaping wounds? This much, doubtless, all these gentlemen will agree to, including the present defendants. Indeed, it is difficult for the ordinary mind to understand why it is that Brady, Dorsey, *et al.*, are excluded from the practical workings of the most philanthropic and humane system. Perhaps it is this reflection that causes the feeling which seems to obtain among them that they are being persecuted. Can it be that it was held that sufficient was done for them in not selecting a stronger case, and that they should have been skillful enough to break down the chance testimony that had marred the symmetry of things? They might assume, as some people doubtless do, that inasmuch as they stand charged with taking only about ten pr. ct. of the "four millions of dollars," which Attorney-General Brewster alleges were stolen from the Treasury, their offending does not reach the colossal proportions which admit of arbitration. Having engaged in comparative petit larceny, they must suffer the consequences of so venial a sin. I beg that you remember that none of these beneficiaries of the "four million of dollars," save the present defendants, are under indictment. Of course I do not include the insignificant persons who technically violated the law, nor the poor wretches who were mere figure-heads. In point of fact it appears that but two of these unscathed beneficiaries have even gone so far as to suggest arbitration. The others have, doubtless, on assurance from counsel that all would be well, retired to their ranches, where, removed from the tumult of the world, they can study at leisure the growth of that maudlin sentiment, reform, which bids fair, under your guidance, to assert itself most vigorously.

Mr. President, permit me to say to you in all candor that I know of no man who believes that the prosecution, as a whole, is in earnest. Its acts have been of such a character as to preclude the possibility of intelligent men believing in its honesty of purpose, in proof of which I refer you to the press. As an illustration of this feeling one of the leading journals of the country, if not the leading one, says: "If the President desires to put the prosecution of these cases (star route) entirely above suspicion, he will do well to provide that the place hitherto occupied by Mr. Bliss shall be occupied by some other man."

It is the first time, I believe, in the history of the Republic that men unblushingly, and in the full glare of day, organized as plunderers, openly defy the power of the State. The laws of the land have been most wantonly and shamefully violated by these men, witnesses for the Government have been terrorized by them and their agents, juries corrupted officers of the Government made to violate their oaths, and justice itself made a mockery of in the capital of the Republic. Such has been the weak and vacillating character of the prosecution, as a whole, that men knew not on which side the Government was arrayed. Such feelings of doubt and distrust have been engendered by this vacillation, that, in the opinion of many law-abiding citizens, nothing less than your action and positive direction in these cases, Mr. President, will ensure a result commensurate with the gravity of the occasion.

Respectfully, yours,

J. A. WALSH.

To the PRESIDENT.

(Indorsed :) J. A. Walsh to the President. Dec. 18, 1882. Att'y-Gen'l's private files.

MR. MERRICK TO MR. WALSH.

[Merrick & Morris, counselors, No. 1306 F street.]

WASHINGTON, D. C., *January 10, 1883.*

JOHN A. WALSH, Esq. :

DEAR SIR: Your favor of the 8th inst. has been received.

As I have heretofore stated to you, I think it is important to have a personal interview with you. Mr. Woodward also desires to communicate a message, which will require your attention, and wishes you to look over some papers in his possession. In such interview a time for your examination in the pending trial might be fixed to suit convenience. The course of the present trial will not be the same as that pursued at the last, and it is impossible for me to say now when you will be placed on the stand. Indeed, your presence might be needed at any moment. I am not privileged to modify the obligation of the subpoena.

Your suggestion, in a communication received just previous to that above referred

to, that the grand jury ought to be *indicted*, contemplates what is, in my professional experience, a novel proceeding. The introduction into the grand-jury room of the printed report of the testimony in the Spofford-Kellogg contest was certainly very improper, and I have no doubt was done from bad motives, but who brought the book in, or who caused it to be brought there, I do not know, and very much doubt if the act, though wrong and censurable, would be held to be *criminal*.

In October last I called the attention of the district attorney to the libelous articles in regard to you which had appeared in the journals of this city during the time that you were in attendance upon the court as a Government witness, and stated to him that I thought those journals, or the parties conducting them, ought to be indicted. He agreed with me and promised to present the cases to the grand jury as soon as the approaching session of the court should open. The court met on the 4th of December last, and the grand jury was organized. I afterwards again spoke to the district attorney upon this subject, and he informed me that he was ready to proceed at any time that you might come forward personally as a witness, but that your personal presence was necessary. In this he was right, and I have no doubt that had you been here and adopted the course uniformly pursued in such cases indictments would have been found.

Yours truly,

R. T. MERRICK.

(Indorsed :) Letter from R. T. Merrick. Jan. 10, '83.

MR. WALSH TO MR. MERRICK.

NEW YORK, *January 12, 1883.*

Hon. R. T. MERRICK,
Washington, D. C. :

DEAR SIR: Yours of 10th inst. at hand to-day.

I note what you say touching the subpoena served on me, etc., etc. In reply to this point I can simply reiterate that I am ready to respond at any time; but it is not fair nor just on the part of the Government to expect me to leave my business and wait in Washington for days, perhaps weeks, to be called to the witness stand, when you can reach me so promptly by telegraph. In all fairness, I am sacrificing enough as it is, without being expected to lounge around Washington at the magnificent rate of \$1.25 *pr. diem*. In addition to the above, I am not feeling well enough to be moving about just at present, and would suggest that I can meet Mr. Woodward here at any time that would suit his convenience.

You have misunderstood me if you thought I suggested the prosecution of the entire (late) grand jury. It was quite a "novel" proceeding for a member of the grand jury to violate the statutes, and the prosecution of the member who did violate the law might prove beneficial as well as "novel." I am surprised that you should say you do not know his name. From information received by me his name is Henry A. Willard. The Department of Justice must know all about this. I have seen it printed in the N. Y. Herald that the copy of the Spofford-Kellogg testimony came from the U. S. Senate library. It came from some one of the public libraries. Mr. Bliss might know, as he handled the copy in the jury room, reading therefrom at my suggestion. If the act of Mr. Willard is not criminal, I fear there is nothing criminal in Foreman Dickson's act, for which he has nevertheless been held by Judge Snell.

As to the necessity of my personally appearing as the prosecutor of these people who have libeled me, I have simply this to say, that if the United States takes no more interest in all its witnesses than it has in me I fear that the time for convicting plunderers of the Treasury has passed. When the Government desired proceeding against Wm. H. Dickson *et al.*, it very soon found persons to make charges against him. As a matter of delicacy I do not like to appear as the everlasting complainant. Surely, Mr. Merrick, there must be some Governmental employé to be found who can go forward, and from what he has read in the prints know that I have been libeled, and on that base his affidavit. I am, of course, willing to appear as a witness in the matter, but is it right that I should have to appear in the preliminary steps?

The reason that these men have libeled me was because I was a witness for the Government. This being the case, ought not the Government institute the proceedings? Why should not the district attorney, with the papers that you could give him, commence proceedings? I trust that I am not unreasonable in my request, for really I do not mean to be so.

Y'rs truly,

J. A. WALSH.

(Indorsed :) Letter to R. T. Merrick in response to his of Jan. 10, '83. Dated Jan. 2, '83.

H. Mis. 38, pt. 2—34*

MR. WALSH TO MR. GRANDIN.

NEW YORK, *November 3d, '83.*

SIR: In obedience to a subpoena issued out of the supreme court of the District of Columbia, I appeared before a grand jury of the said District of Columbia in the matter of the United States against ex-Senator Wm. Pitt Kellogg.

This body found an indictment against the said Kellogg for bribery.

Last month, as I learn by the public prints, the case of the United States against Wm. Pitt Kellogg, for bribery, was fixed for trial on the 10th day of December next.

The House of Representatives of the United States, of which body Mr. Kellogg is now a member, will assemble a few days before the date fixed for the said trial.

It is surmised by some of the gentlemen engaged in the prosecution of the star-route cases that Mr. Kellogg will plead his privilege as a member of Congress, in this way avoiding trial when his case is called.

The Attorney-General, as I understand it, deems it desirable that an earlier date than the 10th of December next be fixed for the trial of the said Kellogg, to the end that it will not be possible for him to raise the question of privilege.

Doubtless having in view the fixing of an earlier date for the trial of the said Kellogg, certain gentlemen connected with the prosecution of the star-route cases called to see me in this city.

The information is conveyed me that it is absolutely necessary for the representatives of the prosecution to hold an immediate conference with me, to the end that the case of the Government against the accused may be properly prepared. This pressing necessity exists, it is said, for an early interview with me even though the trial should not be had at an earlier date than the 10th prox.

Notwithstanding the high regard in which I hold the gentlemen, I declined to see them. The reason which governed me in this refusal I will endeavor to set forth as briefly as possible.

In obedience to the law, and in no sense voluntary, I have been compelled to appear as a witness on behalf of the United States in the matter of the star-route cases no less than five times. Inasmuch as I had and have no interest whatever in these cases it is needless to say that my appearance against the defendants has been quite painful to me, and not unaccompanied with great sacrifices on my part.

During these appearances, and while under subpoena as a witness, indeed whilst actually testifying on behalf of the Government, I was slandered and criminally libeled by sundry persons and newspapers in the city of Washington, known to every one connected with the Department of Justice, without the representatives of the Government taking any legal steps for their prosecution and my protection.

In the past I have appealed to the representatives of the Department of Justice without any result. Indeed, I understand Mr. George Bliss has assumed the position that the Government is not under any obligations to protect its witnesses. In justice to that gentleman's associates I must add they did not agree with him, but have confessed that they were powerless.

If the defendants, together with their numerous and powerful allies, were to surround the witness box with arms in their hands, threatening the life of every one who dared obey the law by testifying, can there be a doubt as to what the position of the Government would then be? Yet, Mr. President, that moral assassination to which I have been subjected in the past is far more formidable to a sensitive man than any armed force.

The proposition that the Government owes a citizen no protection when appearing as a witness on its behalf in obedience to its mandate is too revolting to be considered.

My own sense of manhood and self-respect will not permit me in the future to undergo such an ordeal. The Government has no right to ask for such a sacrifice. I insist upon that legal protection from the Government which the law prescribes. This being accorded me, I will consider also that the Government is lending the cause of justice some moral support, an element which, in the past, many have deemed lacking.

If my presence as a witness on behalf of the United States in its cases against Thomas J. Brady and William Pitt Kellogg is deemed of sufficient importance by you to give your assent to the following requests, I will hold such conferences with prosecution as are proper and will appear as a witness in response to a subpoena: Co-

First. Mr. Merrick or Mr. Ker to appear before the grand jury of the District of Columbia, with the view of procuring indictments against Wm. Dickson for slander, and against George C. Gorham, of the National Republican, and A. C. Buell *et al.*, of the Critic, for criminally libeling me in the matter of the "Benner claim."

Second. That you request Attorney-General Brewster to answer my letter of inquiry addressed him of date Sept. 25th, '83, touching a letter written by him to the Secretary of the Navy, W. E. Chandler, concerning me.

Third. Your assurance that the Government will protect me as a witness. By protection I do not mean physically, as I can do that myself. I mean that protection from slander and libel which the law entitles me to as a witness.

Fourth. The assurance that Mr. George Bliss will not represent the Government in its actions against Thomas J. Brady and William P. Kellogg.

Believe me, Mr. President, if I thus address you, it is because experience has taught me that no proper remedy will be accorded me elsewhere. When you reflect, sir, that the accused proclaims his intention of placing on the witness stand a member of your Cabinet to discredit the prosecution's own witness by having him recite the language used concerning the said witness by another member of your Cabinet, to wit, the Attorney-General of the United States, is it not time that I should know whether or not I am to have the moral and legal support of the Government?

Very respectfully,

J. A. WALSH.

(Care of E. H. Grandin, esq., 18 B'way, N. York.)

MR. WALSH TO MR. HOPKINS.

NEW YORK, *March 15, 1884.*

Chairman Congressional committee in the matter of the Keifer-Boynton investigation :

SIR: I find printed in the columns of the New York World of even date the following:

“ELDER CROSS-EXAMINED BY MR. MERRICK.

“A subcommittee of the committee investigating the charges against H. V. Boynton held a meeting in the United States Hotel in this city to-day for the purpose of allowing Mr. Merrick to cross-examine Mr. Elder, who is confined to his room by sickness. Nothing of importance bearing on the case was elicited, and the only interest centered in the replies of the witness to queries as to his desire to secure employment in the Department of Justice in connection with the letter written by Mr. Keifer to the Attorney-General vouching for his good character. He said that he thought he could earn \$10 a day as well as some Democrats could earn \$100, and that he had seen Mr. Merrick in New York seeking in vain to find John A. Walsh, while he (witness) saw Walsh every day. In reply to a question as to whether he knew Walsh's present whereabouts he said that that was his business, and refused further information.

“The full committee met at the Capitol at noon.”

If all the testimony given by Mr. Elder in the matter of the Keifer-Boynton investigation should be as wholly devoid of truth as the above, then I regret that your committee have been compelled to listen to such a person. In a word, his statement relative to “seeing me every day” is false. I have never seen the man in the city of New York, nor anywhere else, for over a year, unless, perchance, I may have seen him on the streets of Washington when I was there last March or April.

Of course my understanding of the word “seeing” is that he meant and intended to convey the impression that he held conversations with me, &c., which I repeat is false. Having eyes *he may* have seen me on the streets here, as I have been quite visible, even to the naked eye. It is unfortunate, perhaps, that my “whereabouts” for subpoenaing purposes, so to speak, should be a mooted or debatable question, and especially to be regretted that such people as the witness Elder and the “general agent of the Department of Justice,” under the Brewsterian dispensation are thereby enabled to advance theories concerning the same before committees representing the people of the United States. Theories quite in keeping with men—

“Whom want or infamy has chased from home,
And driven in bare-foot multitudes to Rome.”

There need be no difficulty anticipated in finding me with a subpoena in the matter of the case of the United States *vs.* William Pitt Kellogg, Representative from Louisiana, if President Arthur will acquiesce in my reasonable requests made him in the letter addressed to him by me of date November 3, 1883.

Very respectfully,

J. A. WALSH.

WASHINGTON, *May 26, 1884.*

WILLIAM W. KER, sworn and examined.

By the CHAIRMAN:

Question. Please state your age, residence, and occupation.—Answer. My age is 43. I reside in Philadelphia. I am an attorney at law.

Q. State whether you have been in the service of the United States at any time, and, if so, in what capacity.—A. In January, 1882, Mr. Nickerson, who is employed in Attorney-General Brewster's office in Philadelphia, came to me with a telegram and showed it to me. The telegram requested me to come to Washington on the first train, as the Attorney-General wished to see me. I took the first train, the midnight train, and arrived in Washington next morning, which was the 21st of January, 1882. I called on the Attorney-General and he explained to me the star-route cases that were then in progress. I had seen mention of them in the newspapers and that was about all I knew of them. The Attorney-General explained to me that he was in great trouble to get some person who could prepare indictments in those cases. He said he did not know whom to apply to, and that he had sent for me to know if I would undertake the work. I told the Attorney-General that I was a Democrat and I did not know how I would be situated if I accepted a position of that kind under a Republican. He told me that it was not a question of politics, but one of the administration of justice; that he was glad that I was a Democrat; that he knew the fact very well; that he was all the more confident that I would do my duty, and that there would be less reason to complain about any action that might be taken in the cases. I asked him how long a time would be required to prepare the indictments. He said he did not know; that I knew better about that than he did. After talking the matter over I consented to undertake the preparation of the indictments. The Attorney-General called his chief clerk and directed him to make out a commission for me, which he did, as follows:

DEPARTMENT OF JUSTICE,
WASHINGTON, *January 21, 1882.*

WILLIAM W. KER, Esq.,
Washington, D. C.:

SIR: You are hereby appointed special assistant United States attorney for the District of Columbia to aid in the prosecution of certain persons, charged with being concerned in frauds on the United States, in connection with what is as known the star-route investigation; at a compensation to be determined by the Attorney-General when the suits are ended. You will take the oath prescribed for district attorneys and transmit the same to this Department.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

I took the oath. The Attorney-General directed me to see Colonel Bliss, who, he said, had charge of the cases and would give me all the information that I required. The Attorney-General gave orders to have an office prepared and stationery and everything of that kind that I would need in the preparation of the indictments, and directed me, above all things, to say nothing at all about what I was doing, because he did not wish it known until the indictments were ready to go before the grand jury, but he told me that Colonel Bliss would have entire charge of that matter. I went down to the Post-Office Department with Mr. Brewster Cameron and was introduced to Colonel Bliss. I had a few minutes' conversation with Colonel Bliss and then left, telling him that I would

be back in a day or two and would see him and learn further what was to be done. I went back to Philadelphia, saw different members of the bar with whom I had cases then pending, and arranged with them to continue the cases for me until I should return from Washington. I wrote letters to the judges of the courts asking that cases of mine which were on the list should not be called and disposed of in my absence, and in that way I made arrangements by which my business would run along for a period of about a month or six weeks. I then returned to Washington and had a conversation with Colonel Bliss about the star-route cases. He told me that there were other attorneys in the cases along with himself; that there was Mr. William A. Cook for one, and, from what Colonel Bliss said about Mr. Cook, I was under the impression, and in point of fact I was told directly, that I was to be especially careful not to converse with Mr. Cook or have anything whatever to say to him about the cases; not to tell him what I was engaged upon and not to let him see any of the indictments.

By Mr. HEMPHILL:

Q. Who told you that?—A. Colonel Bliss.

By the CHAIRMAN:

Q. At what time was it that he told you that?—A. It must have been some time about the 23d of January—about two days after I had been commissioned. He told me also that Mr. A. M. Gibson was engaged in the case, and that Mr. Gibson was another person I must not converse with, because he had done something which I did not then clearly understand, but, from what Colonel Bliss said, I came to the conclusion that it was some improper conduct. I want to say that at that time I knew neither Mr. Cook nor Mr. Gibson. I never have spoken to Mr. Cook in my life, that I know of. Mr. Gibson I have spoken to on a number of occasions. I was also informed by Colonel Bliss that Mr. Corkhill, who was the United States attorney here, was another gentleman with whom I was not to hold any communication. Of course, I wanted to ascertain who were in the cases, and the persons from whom I could obtain information about them. Colonel Bliss sat down and gave me a short general outline of the cases. He explained to me that there were two kinds of cases; one was the cases in which there had been expedition and increase of service; the other, the straw-bond cases, in which parties had put in bogus securities and worthless bonds. He gave me some papers that he called "abstracts," and said, "Here are abstracts of these cases made by Mr. Woodward; take them and read them over; here are the papers; look over them for yourself and see what you can make out of them." I glanced over the pile of papers without handling them and I took the abstracts (a pile probably about a foot thick) and put them by themselves where I could get at them again. I then went back to the Department of Justice and made up my mind that I would have to begin the case the wrong way, that is, that I must commence by studying the law. The first thing I found was that there were several kinds of laws in force in the District of Columbia. I found in the first place that the laws of Maryland which were enacted prior to the 27th day of February, 1801, were in force here in so far as they had not been repealed by act of Congress; and those laws were in force here notwithstanding they were no longer in force in Maryland. The next species of laws were laws that pertained specially to this District, special acts of Congress relating to the District of Columbia; and next there were the general laws of Congress

which, unless otherwise inapplicable, applied to the District of Columbia. Having ascertained these points as to the laws in force, I found there was a great deal of difficulty and complication attending the correct interpretation of the law. They had their own law and their own practice here, and I felt at a loss for want of somebody to consult who knew from experience something about the law and the practice of the courts here. But of course my instructions were to have nothing to say to anybody, and I had to do the best I could under those instructions. After looking into the matter somewhat, I found that, as a general rule, the common law prevailed here to a great extent. I then commenced to study the facts of the case so as to apply the law to the facts and see just where the case was. I had to go into the Post-Office Department and make a study of the mode in which they made their contracts, how they arranged them, what was required to be done in connection with the contracts, and an additional complication here arose owing to the fact that the rules and regulations of the Post-Office Department, made by the Postmaster-General, under the law of Congress have the same force and effect as laws. Of course there are no legal penalties attached to the violation of these regulations, but still in these matters they have the force and effect of laws. I managed to become acquainted with the manner in which the business was done in the Post-Office Department, and then I made an attack upon the papers in the star-route cases. In the mean time Colonel Bliss had taken certain cases before Judge Snell in the police court, as they call it, and every day the cases were being heard there. So of course I had to wait until the papers were returned from the police court before I could get an opportunity to do anything with them. When I got the papers I made a synopsis of every paper belonging to the Post-Office Department relating to these cases, and I found that the synopsis was of great use to me afterwards. I then began to see that the work was a much greater one than I had anticipated. Colonel Bliss told me that most of the cases would be outlawed by the 4th of March; that the grand jury then sitting would go out of existence on that day, and that unless I had the indictments ready by that time the defendants would escape punishment. When I had made my arrangements I applied to the Department for assistance. Two gentlemen who were stenographers were detailed, and I afterwards employed four other clerks, making six in all. Colonel Bliss talked to me about the framing of the bill. He said he thought the charge ought to be conspiracy. I went over all the papers carefully, to ascertain whether I could make out a separate charge against any one of the defendants. I found that many of the papers that had been filed in the Post-Office Department showed, and they evidently were forgeries. That is, I found on different routes papers of the same character, signed with the same names, and from that there could be but one inference, namely, that one or the other set of papers were forgeries. I studied that matter out very carefully, and came to the conclusion that if every one of these people, Dorsey, Brady, and the others who were afterwards indicted, had done any one of these acts separately they would undoubtedly have been able to escape punishment, because there was no United States statute that met the case—nothing even at common law.

Therefore we were driven to the charge of conspiracy. When we decided that we must charge conspiracy, another question arose. It seems that in 1879, Congress amended section 5440 of the Revised Statutes. Now, as some of these acts had been done prior to that date, the question arose whether the new section as amended had abrogated the old one—whether the old offense was wiped out by the amendment

of the statute. Section 5440 is what is called the conspiracy section. We found also that a number of the acts done dated later than the time of the amendment of the section, and of course they would be covered by the new law.

Then the next point to be determined was how the overt acts were to be set out. It seemed that section 5440 had never undergone judicial examination and interpretation. We could find no decision anywhere by which any of the questions arising under that section had been decided. We had to look at the point whether the overt act might be a mere innocent act, or whether it must necessarily be a criminal act. The section says that "if two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, *all* the parties to such conspiracy shall be liable to a penalty of not less than \$1,000 nor more than \$10,000, and imprisonment," and so on.

Now, if two or more persons conspire to commit any offense against the United States, of course under that statute you would have to set out not only conspiracy but the overt act done in pursuance of it. That led to the conclusion, in my mind at least, that Congress had determined that the act itself need not be a criminal act, but that *any* act committed, showing that the parties intended to commit the offense, would be sufficient to bind all the parties to the conspiracy.

The next point in the statute is, "or to defraud the United States in any manner or for any purpose." It appears that there is no section in the Revised Statutes which provides for a fraud against the United States except in the revenue department. You can defraud any other department as much as you please; the revenue department is the only one around which any protection is thrown by statute.

Then the next point was to find out the meaning of conspire "to defraud." Of course there are common-law frauds and cheats, but the question was whether they existed in the District of Columbia. It occurred to me that Congress had created a new offense, a "conspiracy to defraud the United States," and that under that head would come any fraud which was made such at common law; and upon that theory the indictment was prepared. I stated that view to Colonel Bliss, and he agreed with me. He said it was a case of conspiracy or nothing.

The next point requiring attention was the names of the people who were to be included in the indictment—I speak now especially of the indictment against Dorsey. Colonel Bliss gave me the names of the people that were to be put into that indictment. He said, "My judgment is that these people [handing me a list] should be put in the indictment." I took the list that he gave me and examined the papers very carefully to ascertain how far they bore out what Colonel Bliss had stated. I found that the names he then gave me were all mentioned in the papers in the case in one way or another. In addition to that, I was given the names of the different people who were to be indicted in the straw-bond cases.

By Mr. VAN ALSTYNE:

Q. Do you remember the names that Mr. Bliss gave you?—A. Yes, sir; I do. I dreamed of them for two years, so I ought to know them.

Q. Please state them.—A. I will come to them in the regular order. Colonel Bliss furnished me with the names of the people that he said ought to be included in the straw-bond indictments. In the Dorsey case the names that were furnished me were, John W. Dorsey, Stephen W.

Dorsey, John R. Miner, John M. Peck, Henry M. Vaile, M. C. Rerdell, J. L. Sanderson, and William H. Turner. I found that Sanderson figured on only one route, and I did not pay much attention to him, from the fact that he did appear only in that one route, but it was concluded that it would be better to put him in the indictment, because a good deal might depend upon the oral testimony as to how he should figure in the other routes. I went to Colonel Bliss and told him that I would like to have the Christian names of the people that were given me to be included in the indictment, because in some localities the courts were very particular about the Christian names, while in others they were not, and I desired to get the Christian names of these parties so as to put the indictments in such a shape that it would be impossible for them to demur to it, or to move to quash, or to put in a plea in abatement. I told Colonel Bliss that I must have Rerdell's name, and Sanderson's. I want to call attention particularly to the fact that I had been furnished with the name *Henry M. Vaile* because it turned out that Mr. Vaile's name was not Henry, but Harvey. That, however, was no concern of mine. I was not responsible for that, because the names were furnished to me. Colonel Bliss told me that he did not know what Rerdell's Christian name was. I said that the Government ought to be able to get it. He said it was impossible to get it; that they had tried to get it, but could not succeed. I went to Mr. Woodward and asked him the same question. He told me that Rerdell was an adventurer, and that nobody here knew his name. I went to Mr. Shallcross, a post-office inspector. He told me he did not know Rerdell's name and could not find it out. I went to Captain Tidball, who was then a post-office inspector, and he told me he did not know anything about it. Now, you will remember that all these gentlemen had been for some time connected with the star-route cases before I came in. I went back and told Colonel Bliss that I had failed to get Rerdell's name, and that I feared there might be trouble about it. "Well," said he, "What can we do? We cannot find it out." We talked the matter over and I said to him that it might be that the court would sustain the indictment without the Christian names, but that at all events the worst that could happen to us would be that Rerdell would be compelled to come in with a plea in abatement and give us his full name. Of course that would compel us to write out a new indictment, but the mere manual labor of writing out the indictment would not be a very great matter. As for Sanderson, they said they did not know at that time what his name was, and as I did not know whether Sanderson was a great contractor or was merely a letter-carrier, or something of that sort, and as his name appeared to be connected with only one route, I concluded that I would pass him by. I then set to work to prepare the indictment.

By the CHAIRMAN:

Q. Do you mean that you dropped Sanderson's name out from the indictment, or that you put it in "J. L. Sanderson"?—A. His name was put in as "J. L. Sanderson," and Rerdell was put in as "M. C. Rerdell." As I have stated, I had six clerks employed in the work of preparing the indictments, two of them being stenographers. I would dictate to the stenographers for an hour or so on separate indictments, and then I would be compelled to prepare the copy for the other clerks. To do that, of course, I had to sit up all night, and in that way I kept the six men employed steadily from the 1st of February to the 4th of March writing indictments—each one writing a separate indictment upon a separate subject. I worked sometimes all night. Generally I

got back to the hotel about 4 or 5 o'clock in the morning, took an hour or two of sleep and a bath, and went back to the office; because I had to keep my assistants supplied with copy. I had been told, you will remember, that if I did not get those indictments done by the 4th of March the parties would go free. By the 4th of March I had the indictments all complete. As fast as I got them ready I sent them in to the grand jury in order to get rid of them. They were completed in the following order:

- 14240. John N. Minnix: Perjury, February 28, 1882.
- 14241. Charles H. Dickson: Perjury, February 28, 1882.
- 14242. Samuel G. Cabell, John N. Minnix, Charles H. Dickson: Conspiracy, February 28, 1882.
- 14247. John W. Dorsey: Perjury, March 1, 1882.
- 14248. John W. Dorsey: Perjury, March 1, 1882.
- 14249. John R. Miner: Perjury, March 1, 1882.
- 14250. K. M. Armstrong, James W. Donohoe, Wm. W. Jackson, Albert E. Boone, Samuel G. Cabell: Conspiracy, March 1, 1882.
- 14251. James B. Henderson, James W. Donohoe, Wm. W. Jackson, Albert E. Boone, Samuel G. Cabell: Conspiracy, March 3, 1882.
- 14252. William W. Jackson: Perjury, March 3, 1883.
- 14253. James W. Donohoe: Perjury, March 3, 82.
- 14254. Samuel G. Cabell: Subornation of perjury, March 3, 1882.
- 14255. Albert E. Boone: Subornation of perjury, March 3, 1882.
- 14256. Albert E. Boone, Wm. S. Barringer, Alvin O. Buck: Conspiracy, March 3, 1882.
- 14257. Albert E. Boone, Edwin J. Sweet: Conspiracy, March 3, 1882.
- 14260. Alvin O. Buck, Wm. S. Barringer, Albert E. Boone: Conspiracy, March 4, 82.
- 14261. K. M. Armstrong: Perjury, March 4, 1882.
- 14262. John W. Dorsey, John R. Miner, John M. Peck, Stephen W. Dorsey, Henry M. Vaile, M. C. Rerdell, J. L. Sanderson, Thomas J. Brady, William H. Turner: Conspiracy, March 4, 1882.
- 14336. John W. Dorsey, John R. Miner, John M. Peck, Stephen W. Dorsey, Harvey M. Vaile alias H. M. Vaile, Monfort C. Rerdell alias M. C. Rerdell alias Montfort C. Ruddell, Thomas J. Brady, Wm. H. Turner: Conspiracy, May 20, 1882.

These are all of that lot.

Q. How long were you preparing those indictments?—A. I received my commission on the 21st day of January, 1882, and I finished that work on the 4th of March. The grand jury made their presentments on the 4th of March, 1882.

By Mr. STEWART:

Q. What were the indictments for perjury based upon?—A. They were based upon the affidavits that had been put into the Post-Office Department in connection with the applications for increase and expedition. There is no special United States statute by which they could be indicted. That is a question that the courts should determine, or Congress should pass a law to that effect. If the statutes are broad enough to cover the offense, very well; if not, they should be made so.

Q. Was it a question of deliberation among the counsel for the Government whether indictments would be for perjury for affidavits made under the rules and regulations of the Department?—A. Yes, sir. We had some talk about that. I think some gentleman of this committee wanted to know at some time in the course of this investigation why we

did not prepare indictments for perjury. We did. We wanted to test that question. There are seven indictments for perjury, two for subornation of perjury, and seven for conspiracy.

Q. What was done with the perjury indictments?—A. They have never been tried. There are three of those that relate to that class of cases in which affidavits were filed in order to get expedition; but in the other cases there is not a shadow of doubt of the ability of the Government to convict the parties who were indicted. They swore that the property which they claimed to own was worth a certain amount of money, when, in point of fact, it was worth nothing of the kind. They went security upon bonds to the amount of millions—a man making oath that he owned certain property and that it was worth so much, when, in point of fact, he did not own it and it was not worth anything like the amount he swore to.

By Mr. VAN ALSTYNE:

Q. Were the defendants arraigned on those indictments?—A. No. The indictments were all demurred to and motions were made to quash, and all that sort of thing, but the court sustained the indictments.

By Mr. HEMPHILL:

Q. But the parties have never been brought to trial on those indictments?—A. They have never been brought to trial.

By the CHAIRMAN:

Q. Have those parties been arrested and brought into court?—A. They may have been. I cannot answer that.

By Mr. STEWART:

Q. Is it your opinion as a lawyer that convictions could be obtained on those indictments for perjury?—A. It is my opinion that convictions ought to be obtained. Whether they would be or not is another question.

By Mr. HEMPHILL:

Q. As a question of law, do you think the parties ought to be convicted on those indictments?—A. Most undoubtedly they ought to be, and they could be convicted before any fair court and jury. Here is a specimen case: Charles H. Dickson swore that he owned a piece of property of the value of \$25,000. In the point of fact he did not own that property; it was conveyed to him by a relative of his simply that he might become surety on this bond. One day he swore that the property was worth \$25,000 and a few days afterwards he swore that it was worth \$50,000; and I forget how many hundred thousand dollars he became surety for. And Charles H. Dickson to-day is holding a confidential position in the Department of the Interior.

Q. What position does he hold?—A. I only know that he is in the Department and that he has lately been promoted.

Q. Is the indictment against him still pending?—A. Here it is. It is as bad a case as ever was brought. A man was sent to jail in Philadelphia not long ago who was not one one-hundredth part as guilty as this man Dickson.

By Mr. STEWART:

Q. Is the Dickson who is employed in the Interior Department the same man who took this false oath as to his property?—A. Certainly he is.

Q. Do you make any distinction in the opinion you have given be-

tween the straw-bond cases and indictments for perjury based upon the affidavits made in connection with the applications for expedition and increase of service?—A. Oh, yes; there is a great distinction.

Q. Is it your opinion as a lawyer that indictments can be sustained under the United States laws upon, for instance, John W. Dorsey's affidavits in relation to expedition?—A. It is a very close shave. I think if I were on the bench I should say no; although I felt it to be my duty to prepare three of the strongest cases of that kind as a test.

By Mr. HEMPHILL:

Q. Those were upon the affidavits made to procure expedition?—A. Yes, sir.

The cases that you think can undoubtedly be sustained are those where false affidavits were made by parties as to the value of their property and other matters of that kind?—A. Oh, yes; there is a general law, you know, that if a person comes before a United States commissioner or a notary public, and takes a false oath in any matter that is required to be sworn to, it is perjury. These parties are required by law to swear to the value of their property, and their affidavits are filed in the Department, and upon the strength of them the contracts are awarded to the lowest bidders.

The CHAIRMAN. The Attorney-General has recommended the passage of a law which will make the swearing to an oath prescribed by the regulations of the Departments perjury.

The WITNESS. There was one other indictment, but for some cause the grand jury did not act upon it. For some reason or other it was not sent to the grand jury. That indictment I tore up, and with the others it made eighteen of these indictments altogether that I prepared.

By Mr. VAN ALSTYNE:

Q. Who were the defendants in that indictment?—A. I cannot remember now. I was pretty badly used up at that time, and I did not pay very much attention to it. I was acting under orders. I simply did the work, and did not pay any attention to what they were doing with the indictments.

By Mr. STEWART:

Q. Would not an indictment have lain against Brady, independently of the conspiracy charged, for receiving a bribe as a Government officer?—A. No, sir. There is no law that meets what he did except for conspiracy.

Q. Do you say that he was not indictable for such an offense as that?—A. Of course an indictment would lie for bribery if the evidence warranted it.

Q. So that, so far as Brady was concerned, it was not necessary that he should be indicted for conspiracy; he might have been indicted alone?—A. Provided we could have found the evidence to sustain the charge.

Q. Well, it seems that you did find it afterwards.—A. No. If we could have got such evidence there would have been no trouble.

Q. Mr. Price swore to that, didn't he?—A. I knew nothing about Price at that time. Later I did. Brady was afterwards indicted for that.

Q. Then, at that time there was no direct evidence known to the officers of the Government to show that Mr. Brady had received a bribe?—A. At that time I knew nothing about the facts of the case other than as they were given to me.

Q. You were simply employed to draw the indictments?—A. That was

all; but I did not know anything of the evidence except as it was given to me.

By the CHAIRMAN:

Q. What attorney went before the grand jury when those indictments were found?—A. I presume that Colonel Bliss did. My commission was made out in such a way that I could go if necessary.

By Mr. STEWART:

Q. What measures did you take before you drew that indictment to ascertain the full name of Sanderson?—A. I have told you that I went to Colonel Bliss, and also to Mr. Woodward and to Mr. Shallcross.

Q. I thought that was in relation to Rerdell's name?—A. It was in relation to all of them.

Q. The answers you received referred to Rerdell, as I understood you. I understood you to say that they told you that he was an unknown man—an adventurer?—A. As to Rerdell, the answer that Woodward gave me was that he was an adventurer.

Q. Did Woodward say that he did not know what Sanderson's name was?—A. Yes, sir.

Q. Did not the name appear anywhere on the files of the Post-Office Department?—A. No, sir; nowhere except by the initials. I did not know at that time that Sanderson was the head and front of a great combination. I knew nothing about that. I depended upon my instructions and the advice and guidance that I got from Colonel Bliss.

By the CHAIRMAN:

Q. Can you state why none of these cases, except the one known as the Dorsey-Brady case, went to trial?—A. That I could not tell you without drawing upon my imagination, which I do not want to do. As far as I personally know, the case of Dorsey and Brady was forced to trial by reason of the position that the defendants took. They went into the court and demanded a trial.

By Mr. VAN ALSTYNE:

Q. Suppose you go on with your recital of the history of the cases from the 4th of March?—A. Well, when the grand jury adjourned on the 4th of March there were still other indictments to be prepared in cases in which the statutory period would not expire at that date. Let me state at this point that there are three terms in the District of Columbia. One begins on the first Monday in December and winds up before the first Monday in March. The March term begins on the first Monday in March and winds up before the third Monday of June. The June term begins on the third Monday of June and lasts clean through until December.

On the 6th of March, 1882, the new grand jury came in. I was told to prepare indictments in the other cases in which the time had not expired, and I set to work to do it. I was told also to go ahead and prepare indictments against Salisbury and others, the Parkers, and the other great combinations, in whose cases the time would not expire until some date in June. I began to look a little into the facts of those cases to see where they stood, but Colonel Bliss told me that he would give them to me when he was done with them, and, as I understand from Colonel Bliss, he went before the grand jury with those cases. During the month of March there were some changes made in the Government counsel. On the 4th of March, the day the grand jury made these presentments, Mr. Gibson resigned his position as special counsel.

On the 17th of March William A. Cook resigned his position, and on the 29th of March Richard T. Merrick was appointed special assistant attorney-general. On the 31st of March we were called into court to meet the different motions that were made by the counsel for Dorsey and Brady and the people in the different cases. There were demurrers, motions to quash, applications for bills of particulars, and pleas in abatement, and it looked as if we had plenty of work before us. There were quite a number of indictments, and in relation to every one of them there was a motion of some sort. We began and took up the motions one after another. The principal case, of course, was that of the Dorsey-Brady indictment. In that case they filed motions to quash and demurrers—some demurrers and some motions to quash. They were all argued and were disposed of by the court one after another, and finally we had the case in such a situation that the court fixed the 4th day of May, 1882, for the beginning of the trial of that case. On that day, May 4, we went into court. You will remember, gentlemen, that in these cases you might fitly designate the residences of some of the witnesses by saying that they lived a month's distance from this city; some of them lived away off in Oregon; they had to come over the mountains on snow-shoes, and around to San Francisco in order to take the train to come here. During the month of March we had sent for the witnesses, so as to be ready to try the case when the time came. As soon as the court fixed upon the 4th of May as the day for the beginning of the trial, we sent for the witnesses who lived farthest off, and made arrangements for them to come in details, so as not to have them all here at once. As I have told you, I had started into these cases simply for the purpose of preparing the indictments, and I had no idea that I was ever to participate in the trial of them; I did not think of such a thing; I had never been spoken to about it. But after Mr. Merrick was appointed, the Attorney-General sent for and said, "Mr. Ker, I want you to take part in the trial of the cases." I said, "Very well." I thought the trial would last about a month, and I agreed to go into it. The Attorney-General said, "I want you to see Colonel Bliss and tell him that you will take the witnesses and examine them privately and quietly to ascertain what they can testify to; write out a brief of what you find they will testify to, and hand it to Colonel Bliss, so that at the trial he may know just what the witnesses are going to say, and in that way he will be relieved of a great deal of trouble. I want you," said the Attorney-General, "to attend particularly to that branch of the case." I went to Colonel Bliss and told him what the Attorney-General had said, and the colonel told me to never mind that; he said he would attend to that himself, that he did not want anybody to interfere in that business. I said no more.

By the CHAIRMAN:

Q. Did he give any reason for declining your assistance?—A. No, sir; he seldom gave any reason for anything. Colonel Bliss is a gentleman who is very quick and nervous, and when he is present nobody but himself can do anything. He is willing to shoulder more than he is able to carry.

Q. Did you have any conversation with him about the matter?—A. Colonel Bliss and myself very seldom had any conversation. He was a gentleman that—well, we had nothing in common. I had very little to say to Colonel Bliss. His manner was that of a very nervous gentleman—a person who could hardly control himself. I do not speak unkindly at all of him when I say that he was willing to shoulder more

than he could carry. I simply mean that that is his nature. If another counsel was examining a witness Colonel Bliss could not keep out of that examination. I suppose that members of the committee who are members of the bar have met just such gentlemen. He does not mean anything wrong by it at all, but he is of that disposition; he wants to be into everything that comes along. The court fixed the 4th of May for the trial of the case, but on that day one of the Dorseys was absent, and the court gave him a week to come in. That brought it to the 11th of May. On the 11th of May Dorsey was present in court again, and the court then fixed the 22d day of May for the trial.

Q. At whose instance was that continuance had?—A. That was had because the court was crowded with business. It seems they had some other cases that they wanted to try in the meantime. On the 11th, after the court had announced the continuance until the 22d, Rerdell's counsel filed a plea in abatement, alleging that we had used Rerdell's initials in the indictment. We immediately joined issue on this plea, setting up that he was known as well by "M. C." as by "Montfort C." The matter was to be decided on the following Tuesday, or a day or two afterwards. We went into court prepared to go on with the trial of this plea in abatement, but the judge took the bit in his teeth and said he would decide the question himself, and he quashed the indictment as to Rerdell, on the ground that the Christian name must be given. I tried to convince the court that the rule could not be of universal application, because a Chinaman or a Mohammedan had not a Christian name, and therefore could not be so indicted; but it was no use. The judge said that every man in the District of Columbia must be indicted, if indicted at all, by his Christian name. After we wound up that part of the case I found that I had to prepare another indictment. If Rerdell had not given us his proper name in his plea, we would have been as badly off as before. I set to work to prepare a new indictment and to have it ready before the case should be called on the 22d. In the meantime, witnesses were constantly arriving. I prepared the new indictment and sent it to the grand jury, and they presented it on the 20th, two days before the case was called for trial.

Q. What became of Sanderson's name?—A. At that time Mr. Merrick was in the case, and when the court quashed the indictment as to Rerdell he wanted to have inserted in the indictment some of the overt acts, allegations that the parties had made false claims for money. He said he considered that it would strengthen the indictment, and I thought so, too. Then, again, we found that Vaile's name was not correctly given—that his name was "Harvey M.," instead of "Henry M.," so we held a meeting in the Department of Justice, where we went over the matter and considered the question of who should be put in the new indictment. There was some discussion as to whether Vaile's name should be put in. I said yes; that he appeared in so many of the papers—in almost two-thirds of them—that his name should be put in the indictment, and that point was settled in that way. The next question was as to Sanderson. Colonel Bliss said that he ought to be dropped. Mr. Merrick said he did not know anything at all about that, and would leave it entirely to me; he suggested to Colonel Bliss that the whole of that matter should be left to me, and Colonel Bliss acquiesced in the suggestion. I think it was the same day, or the next day, that Colonel Bliss came to see me and spoke about Sanderson's name being in the indictment. He said that Sanderson had met him at the hotel (at the Arlington, I think), and had said that he did not

mind so much being indicted, but that he objected to having his name mixed up with such a crowd as that. I think I made some jocular remark to the effect that he need not give himself any trouble about that. You see, Sanderson's name occurred on only one route, and I did not think there was enough in the case against him to put his name in the indictment.

Q. Did Colonel Bliss say that he had had a conversation with Sanderson about it?—A. He said he had met Sanderson, or that Sanderson had met him, at the hotel, and had said that he did not mind so much being indicted as being mixed up with such a crowd.

Q. Did you ask Mr. Bliss whether he had taken that occasion to ask Sanderson what his first name was?—A. We did not want Sanderson's name then. I had concluded to drop him out of the indictment.

Q. Did you know at that time that he was at the head of one of the largest combinations of mail contractors?—A. Oh, yes; but I understood that his turn was to come next. I understood that during the March session he was to be brought in with his combination, and therefore I felt perfectly willing to leave him out of this case. Now, I have heard it reported that Sanderson paid some money for that. Colonel Bliss has said that he did not receive any, and I now say that I never saw any of Sanderson's money; never got a cent of it, or anything whatever from him; never met Mr. Sanderson or any of his friends, and if he was induced to pay any money to have his name omitted from that indictment, why it was a great outrage upon him.

By Mr. STEWART:

Q. I understood you to say that you omitted Mr. Sanderson's name from that indictment because you thought the evidence was not sufficient to justify you in inserting it?—A. That was it exactly; but beyond that I was under the impression that he and his combination would come up before the next grand jury. That was my understanding of the matter.

By Mr. HEMPHILL:

Q. With whom did you have that understanding?—A. Well, I had that understanding *from* Colonel Bliss. I had no understanding *with* him. You will remember that I was only doing as I was directed.

Q. You understood, you say, from Colonel Bliss, that an indictment against the Sanderson combination would be presented later?—A. Oh, yes. Colonel Bliss told me that all the other combinations would be brought before the coming grand jury.

Q. And that he desired to have Sanderson put in the crowd in which he belonged?—A. That was it exactly. I understood that Sanderson's case was then before the grand jury. Colonel Bliss at that time was going before the grand jury in, from what he told me, the Salisbury cases, the Parker cases, the Roots & Kerens cases, and also the cases of the Sanderson combination. I understood that all the other great combinations were to be brought before that grand jury, and that in point of fact they were before it. Colonel Bliss was managing that. He was going before the grand jury. Now, you will remember that it was in May the Attorney-General had told me that I was to assist in the trial, and therefore I felt that I had more to say than I had had previously, when I was simply directed to prepare the indictments. I dropped Sanderson's name out of the indictment, and I think it was right that that should be done, and that it would have been wrong to have included him in that indictment. On the morning of the 22d, the day fixed for the trial, the new indictment was ready. The defendants

were called to plead to it, and they filed demurrers and motions to quash and motions for bills of particulars, but the court summarily overruled them all. By the time we got through with these motions it must have been about the 24th or the 25th of the month. Colonel Corkhill, the district attorney, said that he had a lot of cases that he would like to dispose of, and he asked the court if it would not dispose of them before taking up these long star-route cases. The judge said he would do so, and he fixed June 1 for the trial of the Dorsey case, and said he would hear no more dilatory motions and no more applications. Therefore the trial began on the 1st of June, 1882.

Now, I do not think there is anything further that you want to hear from me about that trial.

Q. The trial continued from day to day until what time?—A. The trial was concluded on the 15th day of September, 1882. After I had applied to Colonel Bliss and told him of the directions I had received from the Attorney-General about the examination of witnesses, I ventured to ask him about the witness Walsh, who was then figuring considerably in the newspapers, as, from what I could understand of his probable testimony, I thought he might be of some use to us in the case. Colonel Bliss told me that Walsh was a man of bad character, that nobody would believe him, and that it was not worth while to have anything to do with him. There was another gentleman named Moore, who was supposed to be a valuable witness, but Colonel Bliss said that Moore was a bad man, that nobody would believe *him*, and that there was no use in paying any attention to him. Of course, therefore, I paid no further attention to that testimony. During the trial Mr. Merrick got into communication with Boone. Boone has been indicted a number of times in the straw-bond cases. He is a member of the bar of this city, a very smart fellow, and, I guess, about as honest as any of these mail contractors, and he is certainly the brightest of the lot. He could buy and sell the whole of them. Boone did not put himself in a position where they could attack him personally without going through some other people. Although he is included in these indictments, still you could conveniently convict every other man there without harming Boone, and I do not doubt that he would come out all right and make out a very good case for himself. When Mr. Merrick got hold of Boone it was discovered that Moore would be a very valuable witness, a witness of immense value in connecting Stephen W. Dorsey with these transactions, and Mr. Merrick was very angry that Moore had not been subpœnæd. Then, when he found what Walsh could testify to, he was angry also because Walsh had not been subpœnæd, and because there had not been more attention paid to him. Some time during the middle of the trial—I cannot tell the exact point—we stopped at the Post-Office Department one day and talked a little over the evidence that had been put into the case. I went out to one of the rooms and was waiting for Mr. Merrick to come out. I think I was writing some memoranda when he came out. Mr. Merrick was very much excited, and he said, “Are you going up?”—meaning up toward the hotel. I said, “Yes.” I walked with him out through the corridor, and he said to me in a very excited manner, “What do you suppose that man wants?” I said, “Who?” He said, “Bliss.” I said, “I don’t know; what does he want?” “Well,” said he, “he wants me to let Dorsey go.” Said I, “What does he mean by that?” “Why,” said Mr. Merrick, “he wants to let Dorsey escape. He says we can convict the rest, but he wants to let Dorsey go.” I said that probably Colonel Bliss had only thrown that out as a suggestion as to what would be expedient. “No,” said Mr. Merrick, “he means it.” “Oh, well,” said I,

"he cannot have meant it as seriously as you take it." "Yes," said he, "he did mean it. Now, look here; just think of the Salisbury cases, and think of this matter of Walsh's, and these other cases, and then look at the Kellogg matter, and put them all together. I tell you it is my conviction that he wants to let Dorsey go." I told Mr. Merrick that he ought not to think that way, that probably Colonel Bliss did not mean any harm, or did not mean anything wrong by the suggestions; but Mr. Merrick was very firm in his conviction that Colonel Bliss did mean something wrong. He said to me, "I will tell you what he wanted me to do. He wanted me to go to the Attorney-General and tell him that three were too many in the case, and that the Attorney-General had better dismiss you and let him and myself [meaning Colonel Bliss and Mr. Merrick] run the case." I told Mr. Merrick to go to the Attorney-General and tell him; that probably Colonel Bliss was actuated by a proper motive; that I had no doubt that he was; that I saw nothing in his conduct to indicate otherwise; that he probably wanted to save the Government expenses, and I was very willing to go at any time, and, in point of fact, that I would like to go. Mr. Merrick said, "No;" that if I went out of the case he would go, too; that he wanted me to remain in the case and help him to watch Bliss. I told him that was a very unpleasant thing to do. "Well," said he, "we are going right ahead, and you must keep watch and see that everything goes on all right."

Q. Did you tell the Attorney-General of the facts which you have now stated?—A. Mr. Springer, you always anticipate me. No, sir; I did not tell him. The Attorney-General said to me not long ago, when I had to give an explanation of these matters, that my not telling him before was a dereliction of duty on my part; but I did not think it was, and I would not have told it to him then, nor would I tell it to you gentlemen now, only that it is absolutely necessary in order to explain some matters that followed. What Colonel Bliss said was not said to me, it was said to Mr. Merrick; and if it was the duty of anybody to tell the Attorney-General of it, it was Mr. Merrick's duty. At the time I did not put any faith in the thing. I did not think that Colonel Bliss was acting improperly; I had no such idea.

Q. Do you know when the Attorney-General first learned of Mr. Bliss's conduct in that respect?—A. The Attorney-General first learned of that during the month of April of this year.

Q. Did he not learn of it from some newspaper publication at the time?—A. No; he learned of it from me, and when he did he got up and walked the floor and accused me of a want of friendship and a dereliction of duty, and all that sort of thing. I have very great respect for the Attorney-General, but I would not have told him of that if I had not been compelled to do so.

Q. Was there not a publication in the New York Herald about that time of a purported interview with Mr. Bliss, in which he expressed doubt as to the strength of the case against Dorsey?—A. I do not know. I could not undertake to keep the run of Colonel Bliss's interviews, unless they came within the scope of the case.

Well, the trial went on during the summer, and we arranged the order of speaking in the summing up. I was to speak first, as I had a complete list of the papers. I ought to have said that the mode which we marked out for conducting the business in court was that Colonel Bliss was to offer the papers to the jury and to examine the Government witnesses; Mr. Merrick was to argue the points of law and to cross-examine the witnesses, and I was to do whatever I was directed to do,

especially to see that the papers all went into the case—that there was no mistake made about that. Colonel Bliss had the papers, and he put in what he thought were necessary. At that time Mr. Merrick, of course, did not fully understand the case. It would have been utterly impossible for him to have understood it fully, and he learned it in detail only as the trial progressed. By saying that he learned it only in that way, I mean that there were some portions of it that he only became familiar with in that way. Of course he had a general knowledge of the case, because he had gone over the papers very patiently and elaborately, but as the case progressed there was more or less development of matters that none of us had anticipated. In the final argument, I opened the case and Colonel Bliss followed. Then the defendants' counsel followed Colonel Bliss, and it was arranged that the Attorney-General was to close the case, but between Mr. Merrick and the Attorney-General there were to be a couple of speeches by Colonel Ingersoll and Mr. Jeremiah Wilson. After I had spoken and after Colonel Bliss had spoken, he went to New York, and while he was there he was interviewed. The interview appeared in the New York Herald of Friday, August 12, 1882. Here is an extract from that interview, which is dated at Clayton, N. Y., August 24 :

* * * * *

Dropping politics, the conversation glided to the star-route trials, and Colonel Bliss was asked what he thought of Colonel Bob Ingersoll's claim that the Government had no case.

"Mr. Ingersoll, I think," he replied, "will find out before the trials are over that the cases contained a good deal of meat for the Government. The one against Mr. Dorsey, defended by the brilliant colonel, is admitted to be the weakest of the lot, but in all the others a verdict for the prosecution is confidently looked for, and even that may be decided in the same way."

This interview was the subject of an editorial in the New York Herald of August 26, 1882, which is as follows :

MR. MERRICK'S ARGUMENT.

Mr. Merrick evidently does not share the views expressed by his colleague, Mr. Bliss, in yesterday's Herald, that the case against ex-Senator Dorsey is "the weakest of the lot." Mr. Bliss apparently proceeded on this theory in his argument before the jury, which is noticeable for the lack of stress laid upon Dorsey's connection with the conspiracy. Mr. Merrick, on the other hand, finds in both the law and the evidence abundant materials for making an arraignment of Dorsey, which is as masterly as it is fearless. He declares that while Brady was the central figure, ex-Senator Dorsey was the life of the conspiracy; that it was Dorsey "who led them all, who stood in the van like Satan among his fallen hosts," and that the evidence shows "enough ill-gotten gains in Dorsey's pockets to weigh him down before any honest jury in any honest country." Mr. Merrick's sincerity in reaching these conclusions is as manifest as his ability in maintaining them. When the case is given to the jury, no more earnest and effective argument than his will have been made on either side. As to the question of ex-Senator Dorsey's guilt, the public will wait with keen interest to see whether, in closing the case for the Government, Attorney-General Brewster will take the view of Mr. Merrick or that of Mr. Bliss.

Mr. STEWART. Mr. Chairman, I object to either of those extracts going into our record.

The CHAIRMAN. I think you will find that the publication of this interview and this editorial entered into the case materially before the end came.

Mr. STEWART. It is no evidence against Mr. Bliss, what some newspaper reporter attributed to him, and certainly the comments of a newspaper are not evidence of anything which this committee ought to consider.

The CHAIRMAN. I think you will find that the appearance of these

articles in the newspapers affected materially the subsequent course of the Government counsel, and is admissible as evidence bearing upon the good faith of Mr. Bliss in the prosecution.

Mr. STEWART. But I do not think that, upon any principle of law, what somebody says Mr. Bliss said in an interview is evidence either as against Mr. Bliss or the prosecution generally, or anybody else. It is a mere piece of gossip. Then, as to this editorial, the comment of a newspaper is, of course, of no particular consequence any way, so far as we are concerned; but beyond that, this particular comment is based upon some supposed state of facts which is not proved.

The CHAIRMAN. I think the next paper to be offered, a letter signed by Mr. Bliss himself, which was published in the New York Herald, refers to this very article.

The WITNESS. I was going to state that.

The CHAIRMAN (to Mr. Stewart). Let the witness make his statement, and we will see afterwards what effect it will have.

Mr. STEWART. Very well; let the testimony stand for the present, subject to objection.

The CHAIRMAN (to the witness). Proceed.

The WITNESS. That was followed by a telegram from Mr. Bliss to the Herald, dated Alexandria Bay, New York, August 26, 1882, and reading as follows:

To the Editor of the Herald:

I have not at hand the Herald containing the interview with me, but your editorial of to-day indicates either that you misapprehend its purport or your reporter has failed to report me accurately. I have never by word or thought questioned ex-Senator Dorsey's prominence in the route conspiracy. I have only said that, owing to the exclusion of testimony by the court, the case proved was not as strong against Dorsey as against others.

GEORGE BLISS.

The Attorney-General was very angry about the publication in the Herald, and gave directions that there should be all the greater effort made to show that Mr. Dorsey was connected with the star-route cases. It seems that in Colonel Bliss's speech he had hardly mentioned Dorsey's name, and the Attorney-General himself, or Mr. Merrick, can tell you what conversation they had about it, but I know that the Attorney-General was very much exercised in mind about this interview with Mr. Bliss, more especially as during the argument of the case Mr. McSweeney, a gentleman from Ohio, who was employed as one of the counsel for the defendants, pulled out of his pocket a little book, which proved to be the bill of fare of the complimentary dinner that had been given by Dorsey (or ostensibly given to him, though it was said that he paid for it himself), at which Mr. Arthur, who is now President, and Colonel Bliss had attended; the dinner being given right after the close of the Presidential campaign. This bill of fare was exhibited by Mr. McSweeney to show that the President and prominent men had favored Dorsey in the days of his influence. Of course Mr. McSweeney was not permitted to get the book into the case, but he made the attempt. It turned out that the book had been given to him by Mr. Bliss.

By Mr. VAN ALSTYNE:

Q. Was Mr. McSweeney counsel for one of the defendants?—A. He was one of the counsel for Dorsey, and he pulled this book, which belonged to Colonel Bliss, out of his pocket to show the jury that Colonel Bliss and these other gentlemen had attended this dinner that had been given to Dorsey.

By the CHAIRMAN:

Q. Was that in the argument of the case before the jury?—A. Yes.

By Mr. STEWART:

Q. He did not show the book to the jury, did he?—A. Yes, sir.

Q. Did he allude to it in his argument?—A. Yes. He was talking as rapidly as he could about Dorsey and about this dinner, and he just pulled out the book and showed it.

Q. That was entirely irregular, of course?—A. Yes, of course it was irregular, but he was simply practicing what is often seen at the bar, where a lawyer can sometimes shove in a dozen words or more before he can be stopped. The matter was published in the papers, especially in the Critic here, and I understand that copies of the paper were served at the houses of the jurors, so they all knew what Mr. McSweeney produced the book for.

By the CHAIRMAN:

Q. The point here, as I understand it, is that Mr. McSweeney, representing Dorsey, attempted to bring to the attention of the jury a matter which was not in evidence at all, for the purpose of showing Dorsey's good character and standing before these proceedings were begun, and that this book, which he produced for this purpose, was furnished to him by Colonel Bliss, one of the counsel for the Government.—A. No; I think that is stating it too broadly.

Q. Well, state, then, what was done.—A. The effect that Mr. McSweeney wanted to produce, or the idea that he wanted to convey to the minds of the jury, was—and being a red-hot Democrat he could do it in that case a good deal better than a Republican could—the idea he wanted to convey was that the higher powers did not want Dorsey convicted.

Q. And Colonel Bliss had furnished that book to Mr. McSweeney?—A. Well, it had Mr. Bliss's name on it——

By Mr. STEWART:

Q. What do you say about that? Don't avoid the question. Did Colonel Bliss furnish the book, or not? If he did, say so.—A. I did not see him do that. I cannot say that he did, but the book had his name on it. He asked for it afterwards, but somebody had stolen it.

By Mr. HEMPHILL:

Q. Who asked for it?—A. Colonel Bliss. I did not see him give it to Mr. McSweeney. I know, however, that he spoke about it afterwards. That was one of the little things that occurred at that stage of the case. I don't want to dwell upon it, but I mention it to show one among a number of incidents that occurred at that time which led to a different arrangement of the work in the case.

By the CHAIRMAN:

Q. State what was the course of the counsel for the Government in the subsequent proceedings, in order to bring out clearly Dorsey's connection with the case.—A. Mr. McSweeney had made use of this book as I have stated, and when Mr. Wilson got up to address the jury he proceeded with great rapidity to read to the jury Colonel Bliss's interview, which I have quoted here; and also the editorial in the Herald. Of course the Attorney-General jumped up at once and protested against that being read to the jury. Mr. Wilson argued the point to the court. Of course that is another thing which you gentlemen very well understand, that when the court stops a lawyer who is offering

something that ought not to go to the jury, the lawyer can argue the matter with the court, and tell the court what it was that he was going to tell the jury, so that the jury will get the benefit of it just as much as if he were talking to them. In this case Mr. Wilson said in a very innocent way, "I only wanted to show that Colonel Bliss, one of the Government counsel, does not believe that Mr. Dorsey is guilty, and for that purpose I was reading from this interview with him in the New York Herald." That made the Attorney-General object, and he protested against either the reading of the interview or any argument or statement about it, and the court decided that Mr. Wilson could not be allowed to argue that question before the jury. The Attorney-General had at that time prepared a lot of material showing how Mr. Dorsey's name occurred in connection with the star-route business. As he was preparing himself to make the closing argument, he sent for me, and got me to verify his facts, and I think he modified his speech considerably from what occurred, because he resolved to drop most of the outside points, and to devote his whole time and attention to Dorsey. He found in his investigation of the papers that the name of Stephen W. Dorsey occurred ninety-six times in the transactions connected with the nineteen routes included in the case, and he devoted the best portion of his time to impressing that fact upon the jury in order to show that Stephen W. Dorsey was the head and front of the whole thing.

Q. Did these transactions to which you refer appear in evidence in that case?—A. Yes, sir; in the evidence in that first case, Dorsey's name appeared ninety-six times; but if it had not been for the Attorney-General having the last speech, I don't know where we would have been with the case. We would have had the statement going to the jury uncontradicted that Dorsey did not appear in the transactions at all. We had never dreamt that there was to be any such tactics as that—any attempt to show that Dorsey had nothing to do with the case—because he was the head and front of the whole affair.

By Mr. STEWART:

Q. What had you been doing in your presentation of the case? When you opened the case, did you not bring out the fact that Dorsey was connected with it?—A. Oh, yes.

Q. Then what do you mean by saying that but for the Attorney-General having the closing speech Dorsey's connection would not have been brought out before the jury?—A. It was brought out before, but the attention of the jury was not called to it particularly. You may state a fact, but unless you direct particular attention to it, it simply appears along with the rest of the evidence and receives no special notice. In presenting the case, I said to the jury, "Here is a paper," and went on to explain what the paper was, but I did not particularize Dorsey more than any of the others.

By Mr. VAN ALSTYNE:

Q. You made a statement of what you expected to prove, and when Mr. Bliss came to sum up he forgot all about it so far as Dorsey was concerned. Is that it?—A. Colonel Bliss opened the case in the beginning, but I made the opening speech in the closing arguments, and I did not particularize Stephen W. Dorsey more than any of the other defendants.

By Mr. STEWART:

Q. Did you not call the attention of the jury to the fact that he was one

of the defendants?—A. Yes, of course; to the fact that he was *one* of them; but there was a desperate effort made to save Dorsey and to show that he had really nothing to do with the case or with these star-route transactions, except as a Senator trying to benefit his brother and his friends; that he had simply signed his name to these papers without having any special interest in them, or anything particular to do with the transactions. The defense bent everything to making that impression upon the minds of the jury, and, therefore, it became a necessity on our side to take Dorsey alone and dwell upon his connection with the case and show that he was as deep in as the rest, and the result was that we found that his name appeared in a questionable light ninety-six times in the papers in connection with these star-route operations.

The CHAIRMAN. I suppose, Mr. Stewart, that you see no further objection to the introduction of this interview and the comment upon it?

Mr. STEWART. No. Mr. Bliss' letter makes that evidence admissible.

The CHAIRMAN. Yes; and also the attempt to get it into the trial.

Mr. STEWART. Yes. It was a very improper thing to say anything about it on the trial.

The WITNESS. After the conclusion of the first trial, on the 15th of September, the judge fixed the 4th of the following December for the retrial of the case, the jury having disagreed.

By Mr. STEWART:

Q. Was Walsh a witness in the first trial?—A. Yes, sir; and so was Boone.

Q. Was Moore a witness in the first trial?—A. No; he was not here at all.

Q. Was Walsh impeached on that trial? Did they attempt to impeach him?—A. Oh, no. I do not think it would have been possible for them to have impeached Walsh. I made that a special study when it was determined that he was to be a witness, and I found that he could bring just as good men as any in this city to vouch for him and testify to his good character—bankers, brokers, and merchants. I was all prepared for any attempt to impeach him.

Now, as I was about to say, after the first trial had ended by the disagreement of the jury, the Attorney-General wrote us a letter directing us to go on with the case and make every preparation to begin the second trial. Mr. Merrick came to me at that time and said that I must take charge of getting the witnesses and examining them before they went upon the stand—that that business must be put entirely in my charge. Colonel Bliss acquiesced in that, and Mr. Merrick said, that in order to do the work properly, it would be necessary for me to have a room some place, where the witnesses could come and be examined without the other side knowing what was going on. We talked the matter over and it was suggested that if I went to the Department of Justice and brought the witnesses there, the defendants, who had all or nearly all the detective force in Washington at their command—because the detectives here were in league with the defendants and against the Government—it was suggested, I say, and we all agreed, that if I brought the witnesses to the Department of Justice, these detectives who were watching our every movement would know all about it and would be able to report to the defendants the name of every witness that we had. We concluded, therefore, that the Department of Justice would be too public a place. On the other hand, I could not go to a private boarding house because they would not be willing to allow that rabble

of witnesses to come to a boarding house. The only available place, therefore, was a hotel. I could not go to Willard's, because that was too prominent a place, and there were too many of the defendant's friends congregating there; and finally Mr. Merrick suggested that he would engage a room for me at the Ebbitt House where it would be quieter; he said he would engage a bedroom with a parlor attached, where the witnesses could come, and I could examine them quietly without attracting much attention. The idea was to have the witnesses come there one by one, to question them and write out their testimony and have it all ready so that they could be properly examined when they appeared in court. Mr. Merrick carried out that suggestion by making an arrangement with the proprietor of the Ebbitt House for a room, which was occupied and used as I have stated. I make this explanation because it has been said that I paid an exorbitant price for board, and that I ought not to have paid any such price, and one of the papers here and a paper in New York have insinuated that I had my wife at the hotel and charged her board to the Government. I want to say, gentlemen, that I never did anything of the kind, and I don't think anybody but a contemptible, cowardly scoundrel would mix up a lady's name with such a transaction as that. As I have stated, Mr. Merrick engaged the room and fixed the price, and it was all done upon consultation with the other Government counsel.

We arranged that Boone should send out to bring on Moore for the second trial, and after a great deal of persuasion Mr. Boone agreed to allow his step-son to go out to get Moore. The young man went out, and somewhere in Montana hunted up Moore and brought him on for the trial. I took the witnesses as they arrived, and examined them. I took them separately and talked to them about the case. It occupied a good deal of time. You cannot get out of a witness what he knows about a case like that in five or ten minutes' examination. You have to talk to him and allow him to talk in order to find out just what he knows and what testimony you can get from him. As the witnesses came here they were sent to me, and I examined them one after another, and took their statements, and in many cases I found that the witnesses had not testified at the former trial to all they could testify to. In some instances I was surprised to find that they had not told one-half of what they knew, or not more than one-half. I was surprised, also, to find that they had never been examined by Colonel Bliss in advance as I was examining them for the second trial. It appeared that Colonel Bliss simply called them in and asked them about their route. The witnesses would say yes or no, as the case might be, and that was the end of the examination. I examined them much more fully, and, when there was too large a crowd of them, I would sometimes take them up to the Department of Justice, or direct them to meet me there, and I would ascertain from those present what persons were most likely to be able to supply the missing link of information in regard to any particular route. Then I would either telegraph or send out a messenger to hunt up those witnesses that were suggested in that way. I found that the United States marshals were not to be trusted in the matter of getting the Government witnesses; that it was impossible for the Government counsel in conducting this trial to depend upon the marshals, because in most instances they were either in sympathy with the defendants or were people that could not be depended upon to do as they were directed. For that reason I was compelled to employ a young lawyer (whose name I do not wish to mention unless the committee insist upon it) to go out and hunt up the wit-

nesses and subpoena them. Of course in order to do that he had to be deputized as a marshal. In that way we collected the Government witnesses and secured their attendance. In the first trial we had 77 witnesses for the Government that were examined and 13 that were not examined. I don't know just why they were not examined; it may have been all right; I do not know anything about it, except that it was perhaps supposed that they did not know enough to make it worth while to put them on the stand. On the second trial, by sending out and getting witnesses in the way I have mentioned, we a got a good many more, and the total number on our side on the second trial was 150. On the 4th of December the second trial of the cases began.

By the CHAIRMAN:

Q. Before you proceed to that, please state what was the nature of the additional evidence which you obtained, and which you had not had at the first trial.—A. It was principally implicating the Dorseys. The strongest part of the evidence was against the Dorseys, showing that they were in the case—Senator Dorsey, especially—as deeply as anybody.

Q. Did you find that there had been any special omission in the first trial of evidence that implicated Senator Dorsey?—A. Oh, yes. The case was made a great deal stronger against Dorsey at the second trial. It was made so strong that there could not be a shadow of doubt about it in the mind of any intelligent person.

By Mr. VAN ALSTYNE:

Q. And from the mouths of witnesses who had been on the stand in the first trial?—A. Some of it was from those witnesses. But the witnesses Moore and Boone, when their testimony was properly brought out, threw a great deal of light upon matters that seemed dark before. With the testimony that was given by those witnesses, the case was lighted up considerably. Then, of course, Rerdell told a good many things that showed Stephen W. Dorsey's connection with the matter. The oral testimony of the witnesses from a distance was of such a character that the Dorseys were implicated much more clearly and strongly than they had been at the first trial.

By Mr. HEMPHILL:

Q. You obtained knowledge of these additional witnesses from the others who were already here?—A. Yes, sir.

Q. From the witnesses who had been examined on the first trial?—A. Yes, sir. Some of them had been examined in the first trial, but had not told all they knew. They had omitted some portions of their knowledge that would have been of great benefit to the Government in the case.

Q. And at the second trial those witnesses also told you of others, and you sent for those others?—A. Yes, sir. In the course of the examination of some of the witnesses I found out that there were others whose testimony would be material, and I took a witness, Joseph Pennell, and sent him back with a lot of subpoenas, with directions to find out these other people and subpoena them. I selected him for that service because you know you cannot always get a man who will go out into that wild country and bring in witnesses. It is not every man that they will come for, nor is it every man that will have the grit to travel over the mountains on snow-shoes and hunt up people in that way.

Q. Did the additional evidence which you obtained as to the Dorseys

strengthen your case against them on the last trial?—A. Oh, very much.

Mr. STEWART. That does not appear from the result.

The WITNESS. Mr. Stewart, I have nothing to do with results. The first jury would have convicted if it had not been for the foreman. The second jury did not have nearly the intelligence of the first.

Q. Who was the foreman of the first jury? Was it Mr. Dickson?—

A. Yes, sir. You cannot expect people who don't know how to read or write to determine a case of forgery; neither can you challenge such people and keep them off the jury.

Q. How many men were there on the panel that could not read or write?—A. I think there were about three. I know that, however, only by hearsay.

The CHAIRMAN. Proceed with your statement.

The WITNESS. Well, do you want to know anything about the second trial?

The CHAIRMAN. If there is any important fact in relation to it that you have not yet mentioned, you may state it.

The WITNESS. As I have told you, there were 77 witnesses examined for the Government at the first trial and 13 that were not examined. We offered in evidence 2,300 papers. The testimony covered 3,286 printed pages. At the second trial we examined 150 witnesses; there were 2,761 papers offered in evidence; there were 4,481 pages of testimony, and, including speeches, there were 5,876 pages of the record. The second trial closed on the 14th of June, 1883. There was no disagreement between the counsel for the Government in any way during the second trial. Colonel Bliss, I think, had made up his mind that he was going for Dorsey, and he did go for him. Whatever he had lacked in the first trial he made up in the second. He went for Stephen Dorsey as vigorously and viciously as any of us.

Now, during the time of the first trial, there were other indictments that I prepared in addition to those I have mentioned. There were indictments presented by the grand jury as follows: 14355, against John H. Wallace, for perjury; 14356, against Marshall G. Candee, for perjury; 14357, against George V. Meserole, for conspiracy; 14358, against Meserole and Brady, for conspiracy; 14359, against Price and Brady, for conspiracy.

The total number of indictments that we prepared was 26. There was one that I prepared during the December term that was not used, and one that I started to prepare, in either the Salisbury or the Parker cases, I cannot tell which, but I prepared one indictment of that batch before the cases were taken away from the grand jury. That made 28 indictments that I prepared altogether in the star-route cases. Then I prepared, also, other indictments in the bribery cases, relating to the bribing of the jury. I think there were 8 of these indictments prepared.

Q. State what indictments were prepared in regard to attempts to bribe the jury.—A. Well, there were eight people who were implicated in attempts to bribe the first jury, and indictments were prepared against them.

Q. In whose interest was that tampering with the jury?—A. In the interest of the defendants.

Q. What was the nature of the charge in those indictments?—A. We charged the parties with attempting to influence the jury improperly.

Q. Just explain the facts as they came to your knowledge.—A. Well, I did not pay so much attention to the facts of the cases. Mr. H. H. Wells was employed as special counsel in those cases and he could give

you a statement of the testimony. It would be useless for me to attempt to do so, because I simply prepared the indictments and did not give a great deal of attention to the facts. I don't know what has been done in the cases. I had nothing to do with them beyond the preparation of the indictments.

Examination suspended.

Adjourned.

WASHINGTON, *May 27, 1884.*

WILLIAM W. KER resumed the stand and was further examined.

The CHAIRMAN. You may proceed with your statement, Mr. Ker, in your own way.

The WITNESS. I want to say to the committee before I proceed that I am not indulging in any personal criticism here. I am not stating anything that I do not know either by it being told to me, or from my personal knowledge. I am content to state facts. I want somebody else to do the criticising. I do not propose to criticise here the conduct of any gentleman. I am sworn to tell the truth, and I simply want to state facts and let whoever feels competent to criticise do so.

Now, I have stated a conversation which took place between Mr. Merrick and myself in relation to Colonel Bliss desiring to let Mr. Dorsey go, and Colonel Bliss's subsequent action in producing the bill of fare of the New York dinner and his newspaper interview, to show the ground upon which certain hotel expenses were incurred in order to find a place where the witnesses could be brought quietly and examined. That is the reason why that expense was incurred and the reason why Mr. Merrick, I suppose upon consultation with the Attorney-General, arranged that plan of proceeding.

I want to make one statement here for the benefit of the members of the bar, some of whom have asked me about the quashing of that indictment. The court quashed the indictment as to M. C. Rerdell only. It did not quash the entire indictment, but only the indictment as to one of the persons named, Rerdell; and the court did that of its own motion. There was no application made to the court to quash the indictment. The judge assumed that he should take judicial notice of the indictment of Rerdell by his initials as an inaccuracy, and he called upon us for an explanation and an argument, and we made the argument. After nine years' experience in my own State, in this business, I am able to say that we use initials there in indicting without any question whatever, and I know that the same practice prevails in a number of other States, because I have made inquiry on that point. That is, the old common law rule requiring the Christian name of the party to be set out in the indictment is no longer in force, because the reason for it has ceased. In old times a man was best known by his Christian name. He acquired his surname by reputation; for example, a man was known as "John," or "Thomas," or "James" of such a place. It is like the "mystery." In former times it was regarded as necessary to set out the mystery, or craft or condition in life of the party, to state that a man was a yeoman or laborer, or that a woman was a spinster or a married woman; this was one means of identification, but it was only necessary where the process of outlawry was resorted to. So with regard to the Christian name. There seems to be no longer any necessity for setting it out in full in an indictment for the purpose of identification. In many places it is

held that the initials are sufficient, but the judge held that in this district it is an absolute necessity to set out a Christian name in full.

By the CHAIRMAN:

Q. Why was no notice taken of the fact that "J. L." Sanderson was indicted only by his initials?—A. I think that Sanderson was not brought in.

Q. He was in the indictment?—A. Yes, but there was no warrant for his arrest.

Now, after these indictments were found on the 4th of March, as I have stated, I went on preparing other indictments. The grand jury came into office after the 4th of March. The 4th day of March, 1882, was Saturday, and they came in on the following Monday, the 6th. Mr. Merrick came into the case on the 29th of March. At that time I had no idea that I was to take any part in the trial. I was told that the cases of Sanderson, Salisbury, the Parkers, Roots & Kerens, and others were before the grand jury; whether they were or not I cannot tell, because I had no personal knowledge of the matter other than the fact that Colonel Bliss told me that he was investigating those cases and had brought the witnesses on. I understood that Colonel Bliss, in order to throw the defendants off the scent and keep them from knowing what he was doing, had the witnesses sworn as of the Dorsey case. That is, the witnesses that were to be used in the Salisbury and Parker cases were sworn by the court to give testimony in the Dorsey case. That I know nothing about except from what he has testified to. Mr. Merrick, of course, knew nothing about those cases. He had lately come into the cases and he was not familiar with the facts. He was attending to getting this Dorsey case ready for trial, and the other matter was left entirely to Colonel Bliss. Some time before the grand jury of March, 1882, adjourned finally, Colonel Bliss came to me and told me that there was no use in bothering any further with the indictments as to the Parkers, Salisburys, and those people, because he said he had agreed to arbitrate the cases. I told him he could not do it. He said, "Why not?" Well there was no use in my discussing that question with him. I did not think he could do it, but he said he could. Of course that was an intimation to me that I was to stop my work on the indictments, and I stopped. Afterwards I was told that Colonel Bliss had entered into some sort of agreement to arbitrate those cases and had withdrawn them from the grand jury. Now, I do not know what the testimony was in regard to those routes generally, but there were several of them in which the testimony struck me as remarkably strong. There was a route from Pembina to Fargo in which the testimony was as strong as in any of the cases that I had an opportunity to judge of. However, the whole matter was taken away from the grand jury.

Q. Who was the foreman of that grand jury?—A. Mr. Mitchell, I suppose. I never went before that grand jury.

Q. What time in the term was it that Mr. Bliss told you that those cases were to be arbitrated?—A. It was somewhere about the close. They closed, you know, prior to the third Monday in June. It was somewhere just preceding the close of the term, and of course I knew that the statute of limitations would bar the offenses after that adjournment.

Q. Just state in detail the conversation that took place at that time between you and Mr. Bliss with regard to that arbitration.—A. Colo-

nel Bliss came up to the room where I was in the Department of Justice and said: "Well, Ker, you need not bother yourself any more about those indictments." I said, "What is the matter?" He said, "I have agreed to arbitrate them; to take them away from the grand jury." I replied, "You can't do it." He said, "Why, not?" That was the end of it.

Q. Was the Mitchell grand jury still in session at that time?—A. I think so. That was the end of the conversation. I had no disposition to argue the matter with him, as he was the person who was responsible for it.

Q. You were proceeding to prepare indictments on those routes, and had got some of them ready?—A. Yes; I had some of them ready and I tore them up.

Q. In what cases had you prepared the indictments, as far as your recollection now goes?—A. There were so many indictments that I do not remember which ones I had almost ready. I think I had some entirely prepared. I think I had a couple of cases against Parker ready, but I cannot exactly recall the cases, because I tore the indictments up and that was the end of it.

Q. Were those routes in the Parker, Salisbury, and Sanderson combinations?—A. They were, some of those. I cannot tell exactly which ones I had ready, or nearly ready. I was pushing the indictments along in order to have them ready when the grand jury should make the presentments. I wish to state to the committee now what may not be generally understood, that the mode of procedure in this district is entirely different from anything that I have ever known before. The supreme court of the district has no original criminal jurisdiction. It only obtains jurisdiction over a criminal case by a presentment from the grand jury. The grand jury hears the witnesses, comes into court and hands in a paper saying that they present so and so for such an offense, and that the witnesses are so and so. The court then orders the district attorney to send the grand jury an indictment upon that presentment. The grand jury made no presentments that I am aware of in any of these cases.

Mr. Merrick spoke to me about this arbitration matter some time afterwards, and asked me if I knew anything about it. I told him I did not, except that Colonel Bliss had told me that he was going to arbitrate the cases. Mr. Merrick said, "It is a singular thing that Colonel Bliss has not informed me of it." I asked him if Colonel Bliss had not done so, and Mr. Merrick said, "I remember that he did say something about being going to arbitrate the cases, but I supposed that he was coming back to have a talk with me about it, and I have never heard anything more of it." Mr. Merrick would, of course, be able to tell you about this better than I can; I am only giving you what he told me. In November, 1882, the Attorney-General sent a circular letter to the counsel in the case, which I will read to the committee:

DEPARTMENT OF JUSTICE,
Washington, November 4, 1882.

GENTLEMEN: Some time since, in correspondence with Mr. Bliss, I called his attention to the other star-route cases that were yet unrepresented to the grand jury. Special notice has been made in the public prints, charging that those against Salisbury and others were purposely withheld from the grand jury, and that they were to enjoy immunity. I desire that you give those cases your especial attention. If there are any, let them be proceeded with at once, as soon as your convenience will permit.

I do not write this because I think you need to be spurred, for I know you do your

duty with ability and earnestness and strict integrity, but I write because I wish in a formal way to call your attention to them, and to depute you to act in the premises with earnestness and energy; and do not under any circumstances allow the statute of limitations to protect any of these parties from prosecution.

I am, with great respect, yours,

BREWSTER,
Attorney-General.

MESSRS. BLISS, MERRICK, AND KER.

I asked Mr. Woodward about these cases, but as I have already stated, the statute of limitations had barred the cases because they had not been presented in June, and of course I could not do anything with them. I do not think I made any written communication on the subject to the Attorney-General, but I told him verbally that the matter was entirely in the hands of Colonel Bliss, who had assumed the responsibility and had agreed to arbitrate the cases. I do not recall exactly what the Attorney-General said, but it was something to the effect that he wanted no arbitration—that he wanted the guilty punished. However, it was too late then to talk about punishing them.

In the summer of 1883 the Attorney-General sent an order to me to give him a report upon the status of those cases. In order to make that report, to ascertain what witnesses had been examined before the grand jury and what the grand jury had done, I went to the office of the district attorney and called for the grand jury minute-book. Each grand jury keeps a minute of its proceedings. At every session of the grand jury they enter in a book provided for the purpose the names of the witnesses who appear before them and what disposition they make of each case that is submitted to them. The grand juries in the District of Columbia have evidently kept minutes of their proceedings from the time the grand jury was formed. When I called for this book I was told that there was no minute of the March grand jury. I asked for the minute book; this one was handed to me, and I was extremely surprised to find that that grand jury had kept no minute whatever of its proceedings. I asked the clerk in the district attorney's office, who was responsible for that omission, and he said he did not know. I asked Mr. Taggart, the gentleman in the district attorney's office who usually attends the grand jury, how it was that this grand jury had kept no minutes of their proceedings. Mr. Taggart said that he had had nothing at all to do with that grand jury; that it was all taken out of his hands. Mr. Corkhill, who was then District Attorney, is responsible, I suppose, for the omission to keep any minutes of the proceedings of that grand jury. There is not a scratch of a pen to show that there was a grand jury in session here during March, 1882.

Q. Please look at this book which I now hand you, and say whether it is one of the grand jury minute-books kept in the District of Columbia.—A. (After inspecting it.) Yes; this is the grand jury minute-book.

The CHAIRMAN. I will state to the committee that yesterday I addressed a note to Mr. Worthington, the district attorney, asking him to send me the grand jury minute-book, and he transmitted me the book which I have now shown the witness, and which he identifies as the grand jury minute-book kept in this District.

Q. Now, please point out the place where this omission occurs.—A. On page 81 of this book I find the date March 4, 1882. That was the grand jury that assembled in 1881, the one that found this batch of indictments. That grand jury made an entry, as you perceive, that they had found indictments against Brady, Miner, Peck, the two Dorseys, Henry M. Vaile, M. C. Rerdell, J. L. Sanderson, and William H. Turner.

Q. Those are the parties in the Dorsey-Brady case that was tried?—

A. Yes, that is the Dorsey-Brady case. They also made a record of every one of these indictments, with a list of the witnesses called to substantiate the facts.

Q. Now, please read the minute that you find there.—A. (Reading.)

The following presentments were returned to the grand jury by the special prosecuting officer of the Government, Mr. George Bliss; he having, for some reasons best known to himself, failed to prepare and submit indictments: Edwin J. Sweet, William J. Barringer, James B. Henderson, and J. L. Sanderson, for perjury.

Q. According to this minute there was an indictment ordered against each of those individuals separately for perjury?—A. It seems that the grand jury had presentments that were returned to them without being placed upon the records of the court. If the jury had gone into court and handed the presentments to the judge that would have been entered upon the minutes of the proceedings of the court for that day; but from the reading of this it appears that the grand jury handed these presentments to Colonel Bliss, who returned them to the grand jury. That is the way this reads.

Q. And failed to prepare indictments in those cases?—A. Well, I don't know anything at all about that.

Q. The record states that he failed to prepare indictments, does it not?—A. This is the record of the grand jury.

Q. It appears, does it not, from an examination of this book, that each day's session of the grand jury is entered, with the cases examined and the names of the witnesses appearing?—A. Yes, sir. The grand jury keep a record of the proceedings and the names of the witnesses for the guidance of the district attorney.

By Mr. HEMPHILL:

Q. Which grand jury was it that made those minutes in that book?—

A. The grand jury whose term extended up to the 4th of March, 1882.

Q. Which one was it that made no minutes at all?—A. The grand jury of March, 1882. There are three terms, you know; one beginning on the first Monday in December, another on the first Monday in March, and another on the third Monday in June.

Q. And you say the grand jury of March, 1882, made no minutes of its meeting?—A. None whatever.

The CHAIRMAN. In this book, on page 82, is the memorandum which was read by the witness showing the failure of Mr. Bliss to prepare indictments. The last day in that term was March 4, 1882. That was the grand jury of which Mr. J. B. Wilson was foreman. The next entry is on page 85, under date of October 9, 1882.

Q. What grand jury was that whose entry is made on page 85?—A. That was the grand jury that came into session on the third Monday of June, 1882.

Q. And that grand jury was in session up to October 9, 1882?—A. No. Let me explain that. Previous to that time they had heard the case of Kellogg, and adjourned, but they failed to make any minute of that case.

Q. Then there was an omission on the part of these two grand juries? There is no record, you say, of the proceedings of the grand jury in reference to the Kellogg case?—A. No. They kept that out.

Q. And there is nothing in this book, you say, in reference to the Mitchell grand jury?—A. There is no record of its proceedings.

The CHAIRMAN. Mr. Mitchell, the foreman, testified that they kept notes and that at the end of the session they destroyed them, burned

them up before they left the grand jury room, and that he said also that it was not customary for the grand jury here to keep minutes. Now this minute-book shows very full entries of the proceedings of the grand juries all the way through, with the exceptions that have been mentioned here by Mr. Ker.

The WITNESS. Of course I had to make a report to the Attorney-General that it was impossible for me to tell him who had been examined or what had been done in the cases, because no record had been kept and nobody could tell anything about it. Now, whoever is responsible for that omission ought to be held accountable for it.

Q. Whose duty was it to keep the minutes of the grand jury and to see that they were properly entered?—A. It was the duty of the secretary to keep the minutes. It is the duty of the district attorney to see that the grand jury perform their duty. It is the business of the district attorney to see that the minute-book is properly kept. If Mr. Taggart had been before the grand jury he would no doubt have seen that it was properly done, but his explanation is that he had nothing to do with that grand jury.

Q. Who is Mr. Taggart?—A. He is an assistant district attorney. He is at present assistant to Mr. Worthington. He was at that time assistant to Colonel Corkhill.

Q. In the ordinary business which comes before the grand jury here does Mr. Taggart look after the records of the jury?—A. Yes, sir; he takes care to see that the matters are kept straight. He is a very efficient officer.

Q. Who appeared before the grand jury for the Government during the time when no entry was made of their proceedings?—A. I cannot answer that from knowledge.

By Mr. VAN ALSTYNE:

Q. You understood, however, that it was Mr. Bliss?—A. Well, he told me himself that he was before the grand jury with this case—the Dorsey case. There were several other indictments found at the same time. That same grand jury, at the March term, found the indictment against John W. Dorsey and others—the second indictment; also an indictment against John H. Wallace for perjury; also an indictment against Marshall G. Candee for perjury; also two indictments against George V. Meserole and Thomas J. Brady for conspiracy; also an indictment against Price and Thomas J. Brady for conspiracy. They omitted Mr. Kellogg from that indictment. I had Mr. Kellogg's name included and had to re-write the indictment with Kellogg's name omitted.

Q. How did it happen that you prepared the indictment including Mr. Kellogg's name?—A. I did it from information that I had obtained and in examining the papers. You see I had to anticipate the work somewhat; I had to get the indictments ready in advance, otherwise I would not have been able to get them ready in time for the grand jury. Therefore, when Kellogg was left out I, of course, had to re-write that indictment omitting Kellogg's name.

Q. The June grand jury was within the statute so far as the alleged offense in that case was concerned?—A. Oh, yes; and the others too. I think I had better make Mr. Kellogg's case a separate one here, and state it by itself, because in that way you will understand it better. I simply call attention now to the fact that there was no memorandum made in this grand jury minute-book, which was provided expressly for the purpose of keeping such minutes.

By the CHAIRMAN:

Q. I see that Sanderson's name is mentioned; was there any indictment ever found against him by the grand jury in any case except the Dorsey-Brady indictment from which he was dropped?—A. None at all. Of course, as I told you yesterday, the understanding that I had was that these different combinations would be taken up in their order, that the parties belonging to each combination would be indicted in order, and that Sanderson would come up in his own combination.

Q. And while the grand jury was in session deliberating upon that, you were preparing indictments against the parties in the other combinations, when Mr. Bliss informed you that you need not proceed any further in the matter?—A. Yes; that is what I was doing, getting the indictments ready, so that when the grand jury presented the parties I could hand in the indictments.

By Mr. HEMPHILL:

Q. Why did you cease your work on those indictments?—A. Colonel Bliss told me to stop; that he had agreed to arbitrate the matter. It did not annoy me much to stop. I was tired of it.

By the CHAIRMAN:

Q. You are certain that that statement about the proposed arbitration was made by Colonel Bliss at that time?—A. Why, certainly; I was preparing the indictments and I stopped and tore them up, because I did not want to give them to anybody else.

Q. Then how do you account for the fact that when the grand jury did ignore those bills their action made Colonel Bliss "sick"?—A. I had nothing to do with Colonel Bliss's "sickness"; I simply tell you what I know, what was told me; Colonel Bliss certainly did not consult me about it; I told him what I thought of it.

Q. When he told you he proposed to arbitrate the matter and you said that it could not be done, what did you mean by that?—A. The worst section contained in any act of Congress is section 3469, which allows suits that the Government has instituted to be compromised. More corruption is engendered by that section than by any other that you have in your statute book; but section 3469 says explicitly that its provisions shall not extend to matters pertaining to the Post-Office Department.

Q. Did you call Colonel Bliss's attention to that?—A. No, I did not; having been a district attorney, he ought to have known it. When he said he proposed to arbitrate I told him that it could not be done. That was all. He said, "Why not?" He never entered into any explanation of the matter; he just said, in an off-hand way, "Why not?"

By Mr. VAN ALSTYNE:

Q. You took his remark and the manner in which he made it as a finality so far as that conversation was concerned?—A. Well, *he* was directing the cases; he was my superior; and beyond making an expression of opinion I had no right to interfere at that time—I felt that I had no such right.

Now, about these indictments prepared by me, you see that they are very large and voluminous. In my State I could have prepared this Dorsey indictment on about six or eight sheets of paper, but in the District of Columbia you are bound to set out everything. You cannot call a thing by its right name merely, but must set it out in words and figures—a perfect *fac simile*. For instance, where you propose to indict for perjury, you must give the commission of the officer before whom

the perjury was committed. They have here all the ancient and antiquated law forms, many of which have come down from the time of Edward III, and some of which do not seem to have been lopped off even in England until the reign of Queen Victoria. Therefore I was compelled to make these indictments very elaborate. They were prepared to meet any objection that might be made on the ground of the want of particulars, and therefore they are a little more extensive than anything that I had ever engaged in before, or than anything I want to ever engage in again.

There have been some criticisms of my charge for my services. Some of the gentlemen who have preceded me as witnesses here have said that the charge I made for preparing these indictments was preposterous and ridiculous, and therefore I thought it was my duty to fortify myself in what I had done by testimony. With that view I applied to some members of the bar in my own city, who are recognized as leading criminal lawyers. I have here a letter from Mr. James H. Heverin, a lawyer who has an exceptionally large criminal practice, and also some letters from other gentlemen. Before presenting them I wish also to say to the committee that I do not make a practice of preparing indictments. My friends give me credit for having some ability that way, but I do not prepare indictments for everybody. Sometimes when friends are in difficulty about such matters they come to me and I help them out, and for services of that kind I usually get paid very liberally. I explained these cases and the labor that I had to undergo in them to Mr. Heverin, and showed him what I had done, and he wrote me the following letter:

PHILADELPHIA, *May 22, 1884.*

MY DEAR SIR: I have carefully examined the printed indictment submitted to me in case of *United States vs. John W. Dorsey et al.* I regard it as a model specimen of criminal pleading, and am sure that there is no other lawyer at our bar, and doubtless very few in the country, who could have acquitted themselves so creditably in this line of labor. In view of your exceptional experience and efficiency in this character of work and the vast amount of labor required, I consider your charges reasonable and moderate. I am sure you can recall many cases where I, as well as other practitioners of our bar, have paid you more in proportion for similar services.

Yours respectfully,

JAMES H. HEVERIN.

Hon. W. W. KER.

I have also a letter from Mr. William B. Mann, who was prosecuting officer in Philadelphia for twenty-five years. He is a Republican, and therefore not politically favorable to me. While he was in office he frequently sent for me and requested me to assist him in preparing indictments, and for such service I have been paid quite large amounts. For example, for an indictment that I could write in about two hours he would pay me \$150; because it is difficult to get people to do that kind of work. Mr. Mann examined the indictment in the Dorsey case and it was his opinion that a charge of \$1,000 for preparing it would not be out of the way. This is the letter that I have received from Mr. Mann:

PROTHONOTARY'S OFFICE,
COURTS OF COMMON PLEAS FOR THE COUNTY OF PHILADELPHIA,
Philadelphia, May 24, 1884.

DEAR SIR: I have carefully looked over the indictment against Dorsey and others, and in view of the labor necessarily involved in the examination that was required before the actual drawing of the paper, as well as the care and engrossing attention displayed throughout such a prolonged arraignment, I am very clear in my mind that a charge for the drawing of it of \$1,000 would not be excessive—particularly as the

magnitude and character of the case called for the exercise of a high degree of professional skill.

In cases where private interests have required such service, it has been our practice to pay very liberal fees, and under the circumstances I regard the sum named by me as moderate.

Truly yours, &c.,

WILLIAM B. MANN.

W. W. KER, Esq.

And here is a letter I received from Mr. Sheppard, a leading member of our bar, who was district attorney for six years:

PHILADELPHIA, *May 23, 1884.*

MY DEAR SIR: I am really astonished at the amount of labor stated by you to have been performed in preparing the Star-route indictments, and I may say that I think there are few, if any, now in the profession, who have the capacity for labor, the industry, and the intelligence to enable them to go successfully through such an amount of labor. It must be understood at the outset that indictments for conspiracy are difficult to draw. Each one varies from all others in its special facts. Forms and precedents are of comparatively subordinate use. The framework has to be constructed, and the details have to be filled in by the pleader, as the result of his own thought, after determining upon the general theory of the indictment. Then he must keep constantly before his mind the difference between indictments for common law and for statutory offenses. So also in selecting and setting forth the overt acts; and in determining when such a setting forth is necessary, and where it may be dispensed with, the utmost caution must be exercised. If the pleader slips or fails in any of these things, he will be exposed in the microscopic examination of his work, made on a demurrer, or on a motion to quash, or in arrest of judgment, and then the entire trial and all the other work and expense and labor in the case pass for naught, and it tumbles to pieces, like a great and costly structure built upon sand. Hence, in important cases, especially in a great public or governmental prosecution, the indictment is always amplified and extended, and the counts are multiplied so as to anticipate, and, if possible, cover every conceivable objection which may be suggested, in any stage of the case, by the ingenuity or desperation of the defendants, or by the wisdom of the court. Thus, as an example, I have before me in the printed report of a case in the court of exchequer in England, an "information," much in the nature and form of an indictment, filed by the Attorney-General, which contains ninety-eight lengthy and elaborate counts, exhibiting the alleged offense, in manifold forms, the variations between many of the counts being such as are discoverable only by the sharpest legal acumen.

You state, as one illustration of your labors, that you had to examine about nine or ten thousand documents or writings. The mere mechanical labor of reading these papers is very great, but it is to be considered that each paper presented a number of collateral inquiries, and that the whole mass of them had to be arranged and classified, and their connections and relations with each other studied, and that this bulk of raw material, so to speak, had to be intellectually digested. When these things are properly considered, it will be seen, I think, that the mechanical labor, extraordinary as it is, is surpassed by the labor of a higher quality required. In fact, without going further into details, these exceed in collective magnitude, and in the multiplicity of details, any litigation, so far as I can recollect, which has been before either the English or American courts for very many years. Your work, certainly the most critical, and perhaps the most important, was unprecedented in its character and requirements. It was well done. It was tried, as by fire, but passed safely through the ordeal.

While the compensation asked by you might at first sight appear to a layman, and even to some lawyers, to be too large, I do not think any one will be of that opinion who by official or professional connection with important criminal trials is capable of fully appreciating all the circumstances. The sum is by no means an unusual one, even in civil proceedings, between private individuals; and I cannot conceive why it should be thought extravagant when a great Government is fighting against the most stupendous, the best armed, and most desperate conspiracy of bad men that has yet appeared in the history of the country.

It is, however, due to you personally that I should state a reason for belief in your qualification for the special sort of work you were called upon to perform. For six years you were connected with the office of district attorney of this city when I occupied the position of district attorney. During that period you had exclusive charge of the pleadings arising in the office. These bills were diversified in their nature, many of them difficult and complicated, and they covered every department of the criminal law. I presume you must have drawn many thousands of bills of indictment

of all kinds during that time, and I cannot now particularize any one which was successfully demurred to. After this training and practice, it is not surprising that you were called upon suddenly, and in emergency, by the Attorney-General to render this service. He knew, as a citizen and lawyer of Philadelphia, that your fitness and the schooling, so to speak, which you had received were universally recognized here by the bench and bar, and that on short notice you were thoroughly prepared for work which required a practiced hand for its immediate performance. I do not know any other person in the profession who could have undertaken this work on sight so thoroughly equipped for its performance without requiring time for a preliminary study of the law before commencing a study of the facts. You seem to have been in all respects just the man for such an emergency, for emergency it really was. It was an "occasion sudden," to which no one less familiar, practically as well as theoretically, with the nature of the demand could have responded with equal promptness and success.

I am, very respectfully, yours, &c.,

FURMAN SHEPPARD.

W. W. KER, Esq.

I showed this letter to Mr. Cassidy, the Attorney-General of the State of Pennsylvania, who has a reputation which extends far beyond the State borders. He read it over and put the following indorsement upon it:

I have carefully read the above letter of Mr. Sheppard, and my knowledge, now covering a number of years, of Mr. Ker as assistant district-attorney of this county, as well as a draughtsman of pleadings in criminal cases, enables me to thoroughly and most cordially indorse all that is therein said in relation to the indictments in the star-route cases.

LEWIS C. CASSIDY

I have prepared indictments for Mr. Cassidy when he has required my services in that line and he has always paid me very liberally.

By the CHAIRMAN.

Q. Did Judge Wiley make any statement in regard to the magnitude of the work involved in the preparation of those indictments?—A. He spoke of it in a complimentary way. I want to call the attention of the committee to the fact, that these indictments have not an interlineation in them. Some courts, you know, will quash an indictment that is interlined, and these were written without interlineations. There is not in Washington to-day a man who can take these indictments just as they are, open them up and make a correct copy of them in the time in which they were prepared—from the 1st day in February when I began, until the 4th of March. It would be an utter physical impossibility for any man to do it, and I never could have prepared them in that time but for the fact that I dictated them to stenographers and had six assistants employed to do the writing.

By Mr. HEMPHILL.

Q. Was there a separate charge made for drawing the indictments?—

A. Yes, sir.

Q. How much?—A. Ten thousand dollars. Now, Mr. Gibson, I think, and Mr. Cook, have testified here that such a charge was ridiculous, and on account of their testimony I wanted to get the opinion of gentlemen—lawyers who are competent to judge whether it was or was not a ridiculous charge. I would not do the same work again for the same amount of money. I would not want the job. It was the hardest work I ever engaged in. I had no idea that it would amount to so much. I do not mean to say that the Attorney-General allowed me the full amount of the bill that I presented for that labor. My entire pay was about \$31,000, which covered all my services for two years, excepting about one month, and included the preparation of

these indictments. And these, you will remember, are not all. I prepared indictments in a number of other cases that arose out of the first trial.

Q. You were paid \$31,000 altogether?—A. Yes; altogether.

Q. Was that the amount of your bill?—A. No. The Attorney-General cut it down.

Q. What was the amount of your bill altogether?—A. Well, I do not remember exactly; but I thought I was entitled to somewhere from \$15,000 to \$20,000 a year.

Q. Did you give the business your whole attention during the time you were engaged in it?—A. Yes—my whole attention. I abandoned my private business entirely. I left all my cases, turned them over to other attorneys. I lost all the business I had. When I undertook this work, I supposed that it would last a couple of months, but instead of that, I was two years all but a month engaged in the star-route cases. I was employed in the cases about three months less time than Colonel Bliss, and about three months longer than Mr. Merrick.

By the CHAIRMAN:

Q. Can you state now what was done by you and the other counsel to your knowledge with reference to prosecuting indictments against William Pitt Kellogg, Thomas J. Brady, and Price?—A. I have already stated as to Brady and Price, that the indictment was found by the grand jury in March, 1882. That was the Mitchell grand jury.

Q. State the facts in reference to those cases, so far as you know them?—A. I do not know how the case came to be brought against Brady and Price. I have no personal knowledge how the case originated or why it was first started, but my general impression is that Mr. Merrick had opened up communication with John A. Walsh, and in taking Mr. Walsh's statements Mr. Merrick saw that there was a case against Price, Brady, and Kellogg. At all events the case against those three people for conspiracy was taken before the grand jury in March, 1882, I think, by Colonel Bliss. I am pretty sure of that, from the fact that he told me so. I have told you that I had prepared an indictment against those three parties—Price, Brady, and Kellogg—but that subsequently I had to have the indictment rewritten, with Kellogg's name omitted. When the grand jury had adjourned in June without indicting Kellogg, we were proceeding with the trial of the case against Dorsey. Walsh, after he had been before the grand jury, made some statements in the newspapers as to what had taken place before the grand jury, and Mr. Merrick spoke to me about the case, and said that there ought to be an indictment found against Kellogg, that he was a public official, and that consequently he should not be permitted to escape. The matter was brought to the attention of Colonel Bliss, and we talked it over. Mr. Merrick said that while an indictment ought to be found against Mr. Kellogg, he did not think that there should be any proceeding taken to bring him to trial while he was still a member of the Senate, because if he were convicted he would be disqualified from holding office, and that that would upset the Republican majority in the Senate.

Q. Who stated that?—A. I am telling you now what took place between the counsel for the Government in regard to the indictment of Kellogg.

Q. Who were present at that consultation?—A. Mr. Merrick, Colonel Bliss, and myself. Mr. Merrick said that Mr. Kellogg ought to be indicted because he was a public official, but that he (Merrick) was not in favor of taking any proceeding to bring Kellogg to trial immediately

because he was then a Senator, and if he were tried and convicted he would be disqualified from holding office, and that would upset the Republican majority in the Senate.

By Mr. STEPHENSON:

Q. Mr. Merrick said that?—A. Mr. Merrick said that in this talk among the counsel.

Q. Not Mr. Bliss?—A. No; Mr. Merrick.

By the CHAIRMAN:

Q. Did Mr. Bliss make any response to that suggestion?—A. Oh, of course we discussed it in all its bearings. We knew that if Mr. Kellogg was indicted and convicted that would wind up the Senate for the Republican party, and Mr. Merrick suggested, as I have stated, that it would not be proper to proceed against Mr. Kellogg to bring him to trial while he was a member of the Senate, but that, as the statute of limitations would soon bar the offense, it was an absolute necessity to get an indictment against him. Colonel Bliss did not appear to agree with that view. I cannot recall exactly what he said, but he showed no disposition to try to get the indictment. Finally the matter was taken up by the newspapers and discussed editorially, and some severe reflections were made upon the counsel.

Q. Do you mean that Colonel Bliss did not agree to the suggestion in regard to getting the indictment, or that he did not agree to the suggestion in regard to postponing the trial?—A. He did not agree to the suggestion in regard to getting the indictment. You know that the grand jury of the June term had adjourned without finding an indictment against Mr. Kellogg. They had adjourned just previous to the third Monday in June. The newspapers took the matter up and Walsh commenced to ventilate himself in the newspapers and we saw that we would be chargeable with a dereliction of duty by reason of our neglect to indict. The statute of limitations would bar the offense after the 18th of July. That was the date which we supposed was the only date that we could safely take. We had the meeting in the room back of the court room, where we had lunch. Mr. Merrick had spoken to me about the matter previously. In the conversation in that room Mr. Merrick said to Colonel Bliss that this would be a reflection upon him, that Colonel Bliss's honor was at stake in the matter, and that he should go and ask the judge to recall the grand jury for the June term and bring the Kellogg case before them. In the mean time, as I have said, the grand jury for the June term had been convened, but the judge had told them that there was no business and that he would dismiss them until October, and they had been dismissed. Mr. Merrick insisted that Colonel Bliss should go to the judge and get him to reconvene that grand jury and lay the Kellogg case before them. He said that Colonel Bliss's honor was at stake in the matter, and, in fact, the honor of all of us. Well, the colonel hesitated about it, but finally Mr. Merrick induced him to go to Judge Wiley. I think Mr. Merrick had spoken to the judge about it before Colonel Bliss went to him. At all events, both Mr. Merrick and Colonel Bliss went in and saw Judge Wiley and stated the case to him and asked him to have the grand jury for June term reassembled in order to hear the case against Kellogg, which otherwise would be barred on the 18th of July. Judge Wiley said something about making the application in open court. I was not present and did not hear what was said, but when the court reconvened after recess there was an open application made to the judge to reconvene the grand jury, and he directed that the grand jury

should be recalled; and on the 5th of July, 1883, the grand jury again assembled in court. After the members of the jury had answered to their names it was found that there were some who were to be excused, and the jury had to be filled up. The judge had that done, and I think it took the 6th of July to do it. Then, if my memory serves me right, on the 7th the grand jury retired to their room to hear the case, and Colonel Bliss went before them to present it. There was some discussion among the counsel as to who should go before the grand jury. Mr. Merrick insisted that Colonel Bliss ought to do it in order to vindicate himself. Mr. Merrick told Colonel Bliss that he was subjected to newspaper criticism in the matter, and that people would imagine that he had not acted honestly or properly. Colonel Bliss said that he did not care for newspaper criticism, did not mind it, did not care what anybody said; or something of that kind. But Mr. Merrick insisted that it was his duty to go before the grand jury, and finally he consented to go.

The grand jury was in session I think one day, and then, much to my surprise, they came in and stated that they had nothing to present. The judge looked at them and said, "Well, you are dismissed until October." Now, the proceedings of the grand jury at that time, whatever they were, are not entered in this minute-book at all. As this same grand jury that had just announced that they had nothing to present were to serve until the following December, of course it would have been quite useless to try them a second time, and it was decided to let the matter go.

Q. Do you know what was done by Colonel Bliss in reference to procuring indictments at that time? Did he inform his associate counsel in regard to the failure, as to how it happened?—A. We talked over the matter. Mr. Walsh accused Colonel Bliss of having stated to the grand jury that it was a serious matter to indict a Senator of the United States, and I think Colonel Bliss made some comment upon that. I think he said that it was.

Q. How soon after this grand jury came in and announced that they had no presentment to make was it that there was any consultation between the counsel for the Government in regard to the matter?—A. We were then trying the case, and of course we met every day.

Q. What was said in regard to the failure of the grand jury to indict?—A. Well, we considered it a mistake. I don't know that there was much said one way or the other.

Q. Did Colonel Bliss make any comment on the failure, or any explanation of it?—A. No. I think he did say that if he had been a grand juror he would have found a bill. The Kellogg matter went over, for of course we could not do anything until we got a new grand jury. We were busy at that time in the second trial of the Brady-Dorsey case, and were devoting all our time to that. In the mean time Mr. Merrick had got into communication with James B. Price. We wanted to get Price's testimony in order to use it against Brady. We were under the impression that Price could give us some instance of the payment of money so as to connect Brady with the improper receipt of money. There was not anything, however, in Price's testimony that would assist us in that case, but we found that his testimony was very strong in relation to Kellogg's connection with the star-route business, and we talked over the subject of having Kellogg brought before a subsequent grand jury. Colonel Bliss was opposed to bringing the matter up, but Mr. Merrick insisted that it should be done. There was some application made to the Attorney-General, and he directed the three of us to

come to his house at a certain time, saying that he wanted to see us about the matter of indicting Kellogg. We went to his house one evening and the Attorney-General asked each one of us for an expression of opinion about the Kellogg case. Colonel Bliss expressed the opinion that Kellogg should not be indicted. Mr. Merrick said that he should be. It resulted in the discussion assuming a sort of political aspect, Colonel Bliss accusing Mr. Merrick of being prejudiced on account of his politics. The Attorney-General called upon me for my opinion and I gave it. It was that Price should be used as a witness to indict Kellogg. The Attorney-General said he would look over the testimony and would tell us in a few days what was to be done, and that in the mean time he would send for Mr. Woodward and see what Price's testimony was. Of course the Attorney-General silenced Colonel Bliss on the political aspect of the matter by telling him that he did not want any politics to enter into it; that the law knew no man; that if Kellogg was guilty he should be punished the same as anybody else, and that if, on the other hand, he was innocent, he should not be proceeded against.

By Mr. HEMPHILL:

Q. Did Colonel Bliss assign any reason why Mr. Kellogg should not be indicted?—A. None other than Mr. Merrick's political prejudices.

By the CHAIRMAN:

Q. Did he say whether the evidence against Kellogg was sufficient or not?—A. Oh, no. Of course, though, he denounced Walsh. He said Walsh was not to be believed. After we received orders from the Attorney-General to proceed with the indictment against Kellogg, Mr. Merrick directed me to go before the grand jury in order to have the indictment found. I sent for the witnesses and took the case before the grand jury at the March term of 1883. They examined Mr. Walsh and Mr. Price and the other witnesses and ordered a presentment, which was made to the court, and afterward when I got time I prepared the indictment against Kellogg (which is here), and also an indictment against Brady and another one. Before going to the grand jury the question was to be settled as to whether this offense was barred by the statute of limitations. It appeared from the testimony which was before us and upon which we would have to rely in finding an indictment that about the 18th of July, 1879, Price had gone to Kellogg and asked him to get expedition on two routes which Price held as a contractor, and that Price promised to give \$20,000 to Kellogg for getting that expedition. In a day or two afterwards Price handed Mr. Kellogg one promissory note for \$5,000, due in four months from that date, and five post-office drafts each for a payment of \$3,000. Those drafts were drawn upon the Auditor of the Treasury for the Post-Office Department. The first one was to be paid out of any money due Price on the San Antonio and Corpus Christi route for the quarter ending March 31, 1881. The next was for the quarter following, and so on for five different quarters; the last one falling due in 1882. The question arose whether the statute applied to the receipt of the promissory note and the drafts, or whether it applied to the receipt of the money, the proceeds of the note and the drafts. In the first place, a post-office draft is not what is known in mercantile circles as a "draft." It reads:

The Auditor of the Treasury for the Post-Office Department will please pay to myself or order the sum of \$3,000, out of any moneys due me on route 31148, San Antonio to Corpus Christi, &c.

Now, these drafts are not negotiable. They are filed in the Post-Office Department at some time prior to the money becoming due, but they are revocable at any time. The statute (section 1782) provides that if any Senator or Representative shall receive or agree to receive, either directly or indirectly, any money or valuable thing as compensation for service rendered in relation to any Government contract, he shall be guilty, and so on. Now, in the first place, "agree to receive" is one term and "receive" is another, and it is generally conceded that the agreement to receive would be merged in the act of receiving. Therefore, if Mr. Kellogg had agreed to receive this money in July, 1879, the agreement would have been merged in the act of receiving the money; and our construction of the statute was that, while we would have had a great advantage in indicting him inside of the statute of limitations, yet we were not debarred from indicting for the actual receipt of the money, the proceeds of these drafts. That is, we contended that the money, the proceeds of every one of these drafts was "received" within the statutory period of three years.

By Mr. MILLIKEN :

Q. Do you say that the drafts were received, or that the money was received on the drafts, within the statutory period?—A. Now you are asking me for evidence. The drafts were said to have been received by Mr. Kellogg about the 18th of July, 1879, and the subsequent testimony that we proposed to offer was——

Q. (Interposing.) I am not asking you anything about the testimony. I am simply asking you whether you say that the drafts were received within the statutory period, or that *the money* was so received?—A. I say the drafts were put into the hands of Mr. Kellogg, according to the testimony, about the 18th of July, 1879. The money was paid subsequently, the first payments being in February or March, 1880.

Q. Did the time when the drafts were put into his hands bring the indictment within the statutory period?

The CHAIRMAN. (Interposing.) The date upon which the drafts were received was barred by the statute.

The WITNESS. Oh, yes. This indictment was found on the 18th of April, 1883, and of course at that time all acts done in 1879 were barred. But our theory was that the receiving of the drafts was not the offense; that the drafts were not the compensation; that the compensation was the money, and that the drafts were only the means by which the actual compensation, the money, was to be collected. Therefore we held that every time the money was collected on those drafts and paid to Kellogg, that act made a separate offense under the statute.

By Mr. MILLIKEN :

Q. Then, Mr. Ker, your opinion as to the running of the statute of limitations differed from that which was given by the court when the case was tried?—A. Well, sir, the court and I agreed upon it at first, but the court differed with me at last.

Q. Very well; it is a difference of opinion between you and the court?—A. Yes. The court agreed with me at first but concluded against me at last. Of course I have not anything to do with that opinion, whether it is right or wrong. A lawyer may have his own opinion of the law, and if he stands on his own opinion he ought to be able to explain it satisfactorily. But in this case I did not propose to stand upon my own opinion.

By the CHAIRMAN:

Q. What are we to understand by your statement that the court

agreed with you at first?—A. On the 31st of December, 1883, we went into court. Mr. Walsh was absent, we could not go to trial, and we filed some affidavits asking for a continuance. Mr. J. M. Wilson, one of the counsel for the defense, arose and said to the court: "What is the use of continuing this case? The court has before it everything upon which it can pass, and I now call the attention of the court to the facts of the case and ask the court to decide."

By referring to page 17 of the record you will see that Mr. Wilson used this language:

Now, mark this language: "Shall receive or agree to receive any compensation whatever, directly or indirectly, for any service rendered or to be rendered." The defendant, Kellogg, took the papers and requested Price to return in a couple of days. Price returned at the time fixed and the defendant Kellogg informed Price that he had seen the Second Assistant Postmaster-General, and that orders would be made to expedite the service on each of the routes and to allow increased pay therefor. Remember, that none of this do they say they propose to prove by this witness Walsh. They say they have every other witness present in court to-day. If any such state of facts as that ever existed, if they have anybody who is willing to swear to any such state of facts as that, they have that man in court to-day.

"On the 18th day of July, 1879, the Second Assistant Postmaster-General caused two orders to be made to expedite the service on each of said routes, and to allow increased compensation to said Price therefor. Thereupon Price made and signed one promissory note for the payment of the sum of five thousand dollars."

Does that leave any doubt anywhere that if any such agreement as this was ever made that agreement had then been performed so far as the payment for services rendered is concerned, and the offense was then and there complete?

The COURT. No; the payment was made when the note was paid, I suppose.

Mr. MERRICK. That is the point. The payment was made when the drafts were paid and the note was paid.

Mr. J. M. WILSON. The agreement was made and was complete.

The COURT. The statute covers both agreement and payment.

Further, on page 18, Mr. Wilson says:

Now, I submit that after this thing had been finally consummated, after all had been done that had been agreed to be done on the part of the defendant and on the part of Price, then Walsh, according to their statement, collected money which belonged to Kellogg and paid it over to him.

The COURT. Is not the whole effect of filing these orders in the Department simply a notice to the Department that the contractor's money is to be paid as the order directs?

Mr. J. M. WILSON. No, sir; I think not. I think the legal effect of it is this: That as between the two parties it is an appropriation of the money, just like giving a bank check. It is an appropriation of the account of the party in that bank.

The COURT. A bank check is not an appropriation until the money is paid.

Mr. J. M. WILSON. Oh, yes; I think it is.

The COURT. The money rests to the credit of the drawer of the check until it is paid. It is the drawer's money until the check is paid.

Now, I think I may safely say that the court did agree with me. My view was that these drafts were only a means of collecting the money; that they did not amount to anything until he received the money; and that every time he did receive the money on the drafts it was a separate offense under the statute.

By the CHAIRMAN:

Q. Then you drew the indictment on the theory that the offense consisted in the receipt of the money, and that act was not barred by the statute of limitations?—A. Yes, sir; that on the 18th day of July, 1879, Mr. Kellogg had agreed to receive the money; that is one offense mentioned in the act of Congress; that he then obtained the means to collect the money, that is to say, he then got the drafts; that thereafter he received the money upon the drafts, and that every time he used one of these drafts to collect the money he committed the offense of "receiving" contemplated by the statute, and that the agreement to re-

ceive was merged in the receipt. As that was a matter in regard to which I did not care to depend entirely upon my own view, I got Mr. Merrick to give me a written opinion upon it, and I think you will all concede that you cannot find a much better lawyer than Mr. Merrick. I will read his opinion.

Mr. MILLIKEN. I suggest, Mr. Chairman, that instead of setting forth that opinion at length, we had better simply ask Mr. Ker whether Mr. Merrick agreed with him in his view.

Mr. VAN ALSTYNE. I think the opinion had better go into the record in justice to Mr. Merrick and Mr. Ker, and for the education of the legal profession. [Laughter.]

The CHAIRMAN (to the witness). What did Mr. Merrick state to you was his opinion of the law?

The WITNESS. I have Mr. Merrick's written opinion here. I obtained it before I framed the indictment. I did that as a matter of precaution.

The witness read the opinion as follows:

SEC. 1781. The original contract being to carry the mail for a certain price over the route for a specified time, is by the order of expedition and the addition of pay for such expedition so far modified as to come within the meaning of the law when it speaks of "procuring or aiding to procure any contract." Such order of expedition is a new covenant, engrafted upon the original contract it is true, but the old contract is so far merged in the new in regard to duty to be performed and the consideration to be paid therefor that from the date of the order of expedition the old contract is no longer heard of, except in its original obligations to perform the new work on the new consideration. Under this section Brady and Kellogg should be separately indicted. Kellogg for procuring the expedition on the Corpus Christi and San Antonio route, and Brady for giving the contract of expedition on the Corpus Christi and San Antonio, and also for giving the contract for temporary service on the Socorro and Silver City, unless the latter is barred by limitations.

SEC. 1782. Under this section there should be separate indictments against Brady and Kellogg for the expedition upon the Corpus Christi and San Antonio route "for services rendered in relation to a contract, * * * in which the United States is a party, the consideration being paid to them by drafts on the Corpus Christi and San Antonio route, which were delivered by Price to Kellogg and by Kellogg delivered to Walsh for the benefit of himself, Kellogg, and Brady; and the period of the actual payment of the drafts was the period of receiving the compensation, though the "agreement" to receive was at a date when the offense would be barred by the statute of limitations. There should also be another separate indictment against Brady for receiving the proceeds of the two drafts on the Indianola and Corpus Christi, and the \$2,500, which was contained in the same envelope as compensation for giving Price service on the Socorro and Silver City, route, unless barred by limitations. Price's affidavit states that he informed Brady that he would pay this \$5,000, if he would give him service on that route, and it further states that after service was so given he inclosed the drafts and the money in an envelope directed to Brown and laid the envelope upon Brady's table, calling his attention to it; and Walsh's testimony shows that Brady got the benefit of the drafts in his account with him, Walsh.

SEC. 5498. There might also be an indictment against Kellogg for receiving "a share of or interest in a claim," but I doubt if the indictment will hold, as the language of the section seems to contemplate at the time of the employment the existence of a money demand against the United States, and not the simple procurement of a contract.

There should be two indictments under section 1781 and two under 1782, and one against Brady under 1782 for the Socorro and Silver City route.

The point that I wanted settled was the period at which the offense was committed, and Mr. Merrick, after consultation with me, gave me this opinion upon the law, and you see it accorded with mine, that the agreement to take the drafts was simply an agreement to receive and that the time when the money was collected on the drafts was the time when the compensation was "received," and it appears from what I have read that in December the court agreed with us upon that point.

By the CHAIRMAN:

Q. And, acting upon that opinion which you obtained from Mr. Merrick and upon your own judgment, you proceeded to draw the indictment?—A. Yes, sir. The indictment sets out the actual dates upon which the Treasury Department paid the warrants. The act of Congress, you know, says “who shall receive or agree to receive directly or indirectly,” and the question was whether Walsh was not acting as Kellogg’s agent, and whether payment to him was not an indirect payment to Kellogg. It was settled that it was. There are five counts in the indictment, each one specifying the dates on which the payments of money were made by means of these different drafts. The first payment was made on the 19th day of April, 1880, and this indictment was found on the 18th day of April, 1883, one day previous to the time when the first payment would be barred by the statute.

Q. So that none of the payments were barred when this indictment was found?—A. No, sir; none of the payments were barred.

By Mr. MILLIKEN:

Q. Then the misfortune of your indictment was that the court found the law to be different from what you had held it to be yourself?—A. Well, that I suppose would be about a fair statement of it. The court decided that receiving the drafts was the offense and that that was barred by the statute of limitations.

Q. That is the whole of it, is it not?—A. That is about the whole of it.

Q. Who appeared for the prosecution?—A. Mr. Reynolds, Mr. Worthington, the district attorney, and myself.

By Mr. VAN ALSTYNE:

Q. I understood you to say some little time since that prior to the finding of this indictment you had drawn an indictment in which the name of Kellogg was included?—A. Yes, sir.

Q. And that his name was stricken out of that indictment?—A. Yes, sir.

Q. That indictment was before the grand jury which was organized March 6, 1882?—A. It was.

Q. At the time that indictment was framed were the officers of the Department of Justice engaged in the prosecution in possession of the same line of facts upon which the indictment which was subsequently found against Kellogg was predicated?—A. Not precisely; because we had not Price’s testimony.

Q. Did you have knowledge of the facts outside of Price’s testimony?—A. Oh, yes.

Q. Do you know why Kellogg’s name was taken out of that indictment, and by whose direction?—A. I only know that I was told that the grand jury did not present him, and therefore, they having failed to present him, of course I had to make the indictment apply only to Price and Brady.

Q. So far as you have any knowledge of the facts, was there any difference between the bearing of the evidence in possession of the prosecution upon Brady and the others against whom the bill was found and its bearing upon Kellogg?—A. Oh, if you want me to give an opinion about the facts——

Mr. MILLIKEN (interposing). We don’t want your opinion; we want your *testimony*.

The WITNESS. Well, what am I to do? There seems to be a differ-

ence of opinion here, and I want to know which one of you gentlemen I am to answer.

(The question was read by the stenographer, and Mr. Milliken withdrew his objection.)

A. From my knowledge of the evidence the case was as strong, if not stronger, against Kellogg than against the others; from the fact that, so far as I knew, the testimony of Walsh would be before the grand jury.

The CHAIRMAN. Proceed with your statement.

The WITNESS. While I was preparing the indictment against Kellogg Colonel Bliss came to me and said that he had been requested to come and ask me—I don't remember now whether he said he had been requested by Kellogg himself or by a particular friend of Kellogg—but he said that he had been requested to come to me and ask me to put the true dates in the indictment. I told him I never did anything else; that I would certainly do that, and I did put the true date of each payment in that indictment—the date upon which the money was paid by the Treasury Department upon the draft. Those were the dates that I inserted in the indictment for each case.

Q. That request did not influence your judgment at all? You intended to put in those dates anyway?—A. Certainly. After that indictment was found and was presented to the court Colonel Bliss left and went to New York. He said he was not coming back again. He was indignant at the indictment being found. We coaxed him to come back, told him that he was not running the case; that the Attorney-General controlled it; that the Attorney-General wanted the indictment found, and that we were proceeding under his direction, and finally Colonel Bliss agreed to go on with the case.

Q. You appeared before the grand jury?—A. Mr. Merrick sent me before the grand jury.

Q. Did you have a commission authorizing you to go before the grand jury?—A. I was originally commissioned with the intention that I should go before the grand jury if there was any necessity for it. But I want to say here that Colonel Corkhill rendered me very material aid in getting that indictment. There has been a good deal said about that gentleman in connection with these cases, and I wish to say that I never saw anything wrong about him. He was kind and polite, and he rendered me very material service in getting the indictment. After that indictment was found the defendant moved to quash and demurred, and the matter was heard from time to time, and finally it was decided, I think, on the last day of July——

By Mr. VAN ALSTYNE:

Q. You have been asked whether you were properly authorized to appear before the grand jury. Now, the indictment itself was signed by Mr. Corkhill, the regular district attorney, was it not?—A. Nobody else could sign an indictment.

Q. Therefore, there was nothing in the fact that you were before the grand jury representing him, that would invalidate or impair the validity of that indictment?—A. Well, they made that attack, you know.

Q. But it was a failure?—A. It was a failure. That was one reason why they wanted the indictment quashed. They said that I had no business before the grand jury, but I had looked into that matter very closely and was satisfied that I had a right to go before the grand jury, and the court decided that I had. Those points were all argued before the court up to the time of the trial.

By the CHAIRMAN :

Q. Please explain the nature of the proceeding by which the court finally held that the evidence which you offered was not admissible on the trial.—A. Well, we have on record the decision of the court upon that point. The substance of it was this : We called Price, who testified to having given Kellogg the drafts and the promissory note. Colonel Ingersoll moved to strike out Price's testimony, which was a novel way of proceeding. I wanted to get them to demur, so that I could join in the demurrer and get a verdict on them if the court decided in my favor ; but the court resolved not to hear any more testimony, but to hear the counsel argue that point. We did argue it. I endeavored to show the court that the position that we had assumed in the beginning was sound ; that these drafts were simply like a check, or an order on somebody to pay money, and that the offense ought to be dated from the time when the money was actually received. The court, however, decided that the time of the taking of the drafts was the period at which the offense began, and therefore decided against us, and, of course, we had nothing to do but to submit. You know the Government has no appeal. If we had had an appeal I would have taken it, because I do not believe the decision of the court is good law. I do not say that disrespectfully to the court, because Judge Wylie is as good a criminal lawyer as I ever practiced before, and in all his multitudinous decisions in these cases, there were only two in which I thought he was wrong. One of those was the quashing of the indictment against Rerdell, on the ground that the Christian name was not given, and the other, this decision.

By Mr. MILLIKEN :

Q. Those two instances in which you differed with the judge are the two particular instances where his decisions ran against your propositions ?—A. No, sir ; not by any means. He decided a great many hundred propositions, and several of them were against me. But I don't think it is any disrespect to the court to differ with the court. We do that when we take an appeal, and it is one of our privileges and prerogatives to hold our own opinions upon the law. Of course I may be wrong, but if I had had an appeal I would have taken it in that case.

By the CHAIRMAN :

Q. Then the decision of Judge Wylie ended the proceedings, so far as the Government was concerned. Was there any date in the indictment that was barred by the statute of limitations ?—A. None at all. You see, we had either to indict Mr. Kellogg for receiving the drafts, which would have been barred by the statute, or we had to indict him for receiving the separate sums of money. We did indict him for that, and it was the only thing that was left for us to do. We believed that we were right, and that we had a strong case, because whatever doubt might have attached to the entire transaction was dispelled by what we were told. Colonel Bliss, in discussing the case with Mr. Merrick and myself, told us that Mr. Kellogg had called to see him, and had told him that he had got the money. Colonel Bliss told us that he said to Kellogg, "What did you take it for ?" and that Kellogg answered, "Well, I took it and used it for political purposes in Louisiana." Colonel Bliss told Mr. Merrick and myself that, and that was one reason why we determined that the man should be prosecuted.

In December, after I had filed the affidavit setting forth what we ex-

pected to prove by Walsh's testimony, Mr. Kellogg was very indignant, and went around to the newspaper offices talking to the correspondents, and he went, among others, to the correspondent of the New York Times, Mr. Dunnell, and told him (and I have no doubt that it was intended to be repeated to me) that he either ought to, or that he was going to, "take a shotgun and blow" my "brains out." Well, now, I have only to say that if Mr. Kellogg will let me know the time and place when he wants to put that in practice I will be on hand. My character has never been assailed. I don't want to do Mr. Kellogg any injustice, but if he thinks that he wants that kind of satisfaction I am willing to give it to him.

Mr. MILLIKEN. I judge from the latter part of your testimony that you and Kellogg are not on terms of the warmest friendship.

The WITNESS. Don't you know that there is a divinity that hedges a member of Congress so that you cannot get at him? [Laughter.]

Mr. MILLIKEN. I am glad to hear that. I feel safer now than I did before.

By the CHAIRMAN:

Q. Is there any further statement that you desire to make?—A. I don't know of any other.

By Mr. MILLIKEN:

Q. How long were you employed by the Government in these cases?—A. One year and eleven months.

By the CHAIRMAN:

Q. How much do you say your bill was cut down?—A. I don't remember exactly now.

By Mr. MILLIKEN:

Q. How large a bill did you render against the Government?—A. I don't remember now; I did not keep any account of it; the Attorney-General cut it down. You see I came from his own city, and he knew me, so he did not take as good care of me as he did of some of the others.

Q. You received \$31,000, did you?—A. Yes, sir.

By Mr. VAN ALSTYNE:

Q. During the progress of those two trials were there not frequent adjournments for several days at a time?—A. No, sir.

Q. In neither trial?—A. No.

Q. Were there not adjournments from Friday until Monday or Tuesday?—A. Oh, yes; from Friday to Monday.

Q. And sometimes longer?—A. No; unless a legal holiday intervened.

Q. At whose instance were those adjournments?—A. By the order of the court.

Q. They were not suggested or controlled by the attorneys?—A. Oh, no; we had nothing to do with that.

By the CHAIRMAN:

Q. What contract did you have with the Attorney-General with regard to the compensation you were to receive for your services?—A. The only contract I had was my commission. I was employed "at a compensation to be determined by the Attorney-General when the suits are ended."

Q. Your contract was made with Attorney-General Brewster?—A. We don't make contracts in our city.

Q. I mean your appointment was made by Mr. Brewster during his term as Attorney-General?—A. Yes, sir; as I have stated. I did not charge for my services by the day; we don't do that kind of business in our city; we charge what the service is worth. I never heard of a *per diem* charge for a lawyer before. I took my account and averaged it and made it up to what I thought I ought to receive. In doing so I kept in mind the fact that I had abandoned my private business to attend to these cases.

(Adjourned.)

WASHINGTON, D. C., *June 6, 1884.*

CHARLES C. COLE sworn and examined.

By the CHAIRMAN:

Question. Please state your age, residence, and occupation.—Answer. I am forty-three years of age. My residence I suppose is in the District of Columbia, though I claim to be a citizen of the State of West Virginia; I have resided in Washington for the last six years. My occupation is that of a lawyer.

Q. Were you attorney at any time for any of the persons known as the defendants in the star-route cases or contractors in the star-route mail service?—A. I was attorney for a man by the name of Rerdell; I think his name is M. C. Rerdell. He was one of the defendants in the case that was tried twice in the supreme court of the District of Columbia, known as the star-route case, in which Dorsey and Brady were the principal defendants. I was his counsel during that first trial. I was not his counsel during the second trial. I was employed by him about the first of June, at all events a few days before that first trial commenced. I do not remember now what year that was; I think it was 1881, but I am not certain about the year; but it was just a few days before the trial commenced that I was employed.

Q. During the first trial?—A. Yes, sir.

Q. Was it during the first or the second trial that he entered a plea of guilty?—A. It was during the second trial.

Q. Were you then his counsel?—A. No, sir; I ceased to be his counsel a few days before the commencement of the second trial. I retired from the case and he employed another man to represent him (Judge Wilshire, of Arkansas) in the second trial.

Q. Then, during the time that you were counsel for Rerdell he did not enter a plea of guilty in the case?—A. No, sir; he did not actually enter it, although he had the subject under consideration.

Q. During the first trial did you represent him in court during the trial of that case?—A. Yes, sir; that is, I was there for the most of the time. I think about the first of August, after the evidence was already in and the arguments commenced, I was somewhat ill from malaria and one thing or another, and tired, and I went away for a few weeks. I think I was gone two weeks, and returned before the arguments closed, and was present when the case was finally submitted.

Q. Did you appear for him at his instance or at the instance of some of his friends?—A. At his instance.

Q. At his own instance?—A. Yes, sir; I had no negotiation with anybody else; I negotiated with him. I do not remember now that any of his friends ever spoke to me in regard to acting for him.

Q. He was not, I believe, a principal in the case, but merely a clerk?—

A. Yes, a clerk; a clerk for ex-Senator Dorsey, I think, and perhaps some of the other star-route men.

Q. Were you consulted by any other star-route contractors in a professional way or in any way?—A. Yes, sir; I was consulted by one other person who was indicted, Samuel G. Cabell. He was indicted, I think, for perjury, perhaps, in putting in straw bonds or something of that sort. I had been Mr. Cabell's counsel in other matters, and after he was indicted he came to me in relation to the matter and consulted with me somewhat, but it did not result in my being retained. I never was retained by him in that case, in the case in which he was indicted, although I had some conversation with him about it. He may have considered me as retained, or as his counsel, or one of his counsel in the case, but he never paid me any retainer, and I never considered myself retained.

Q. His case never went to trial?—A. No, sir; it never went to trial.

Q. What time were you retained in his case?—A. I am not certain, but it was about the time Rerdell retained me; whether just before or just after, I am not certain when he had his conversation with me. I know we had some discussion with regard to the fee that he was to pay me, and he mentioned the fact that he had several other attorneys. He never came around to pay the retainer, and I never considered myself as retained in that case.

Q. Were you retained in any other case of those indicted or likely to be indicted, or against whom any charges were pending, or parties who feared they might be indicted?—A. No, I do not think I was ever retained by any of the others. There were two men that talked with me, two that I remember now, in relation to it.

Q. Who were they?—A. Mr. Albert E. Boone was one. I think about the time that Rerdell retained me Mr. Boone saw me and said something about retaining me. But there was some arrangement made between him and the counsel of the Government by which I do not think he retained counsel. While he was a defendant in one of those cases and indicted, I understood that he had some arrangement with them by which he was not required to employ counsel, and so he did not retain me.

Q. Was there any other?—A. There was a man by the name of Colegrove who talked with me about star-route matters, but he never retained me in relation to anticipated prosecutions against him as a star-route man. He had some litigation in Missouri and some in Pennsylvania, growing out of his subcontracts with star-route men in those States, and some other matters; I do not remember whether they all grew out of his star-route contracts or not. But he had been sued in Missouri, and he wanted to sue some parties up in Pennsylvania, and thought that he might want to sue some of the subcontractors here in the District of Columbia, and he retained me in relation to those matters.

Q. Did he pay you any fee for your services?—A. Yes, sir; he paid me something, I do not remember now how much. A part of the money I did not receive directly from him; I received it from another attorney who was employed conjointly with me.

Q. Who was that?—A. That was Mr. C. D. Coleman. In that connection Mr. Colegrove, as I now remember, was brought to my attention by Mr. Coleman. Mr. Coleman had lived in Missouri some years ago, and so had Dr. Colegrove, as I understood it, and they were acquaintances there.

Q. How much of a fee did you receive in that case from Dr. Colegrove

and Mr. Coleman together?—A. I do not remember how much, off and on. I think at the time I was retained I received somewhere in the neighborhood of \$200. The matters he wanted to consult me about were not of very great importance, and required only a consultation at that time. He was anticipating that a suit would be brought against him here by some Missouri parties, and he wanted some advice about that, and some advice about a Pennsylvania matter where he wanted to sue some parties; and I think there were one or two other matters that I cannot call to mind now, but they were not of very great importance. My recollection is that I received at that time \$200, or possibly \$250; and then afterwards he had to bring a suit in Pennsylvania, and I took some testimony in it, and rendered him some services in relation to the conveyance of property here in Washington which belonged to his wife, and such things as that, for which he paid me small sums along from time to time, the amount I do not remember; I do not know, indeed, whether I have an account of it; possibly I have.

Q. How much in all did you get from Mr. Coleman on account of the matters which you have referred to?—A. My recollection is it was either \$200 or \$250, I am not quite sure which.

Q. But not exceeding \$250?—A. I do not think so.

Q. And how much did you get from Mr. Colegrove?—A. I do not know exactly. I have been and am yet his counsel in some matters, quite a number of different matters, and he has handed me, down to date, possibly all told, in addition to what I got in the first place, maybe \$200 more; I should think that would be the outside figure.

Q. Not exceeding that?—A. No, sir.

Q. For any purpose or for professional services?—A. Professional services or otherwise.

Q. For any service?—A. For any service. Four hundred and fifty dollars would cover every cent paid me, and more too. I think I have stated it too high.

Q. In both cases?—A. Yes, sir; in what I received from Mr. Coleman and what I received from Dr. Colegrove directly.

Q. Was Dr. Colegrove a star-route contractor?—A. Yes, sir; he is a large star-route contractor. He has a great many contracts, and has had for years, for carrying the mails over the country in the West and South, and some in New York and Pennsylvania that I have advised him about, off and on. And there was talk, along soon after the star-route investigation commenced, that he would be indicted. There was quite a piece in one of the New York papers about it, and he was a good deal stirred up over it, and some time afterwards, I do not remember just how long, after I had been retained for him through Mr. Coleman in relation to these other matters, my attention was called to that by the doctor, and he feared that he might be indicted, though he always claimed, and I thought from what he showed me, there was no ground for an indictment. And I will say further, that towards the close of the star-route investigations, amongst the very last investigations before the grand jury, they brought up this case of Colegrove's and sent witnesses before the grand jury, as I was informed by Mr. Colegrove. He came to me at that time and protested, and said that there was nothing that there ought to be an indictment against him for, and he wanted to save the scandal of it, and wanted to know what I thought of his going to the Government counsel and showing them just how the thing stood. I did not know the Government counsel, except Mr. Merrick; I was pretty well acquainted with him, and knew him to be a pretty fair sort of a man, and I told Dr. Colegrove I thought there would

be nothing improper in his going to Mr. Merrick and, as he had nothing to conceal, making a full, fair, square statement of the thing just as it stood, and I thought that when Mr. Merrick saw how the thing was he would not have an indictment found. I learned from Dr. Colegrove that he went and saw Mr. Merrick, and I believe he did, from what he told me. However, no indictment was found. I know the matter was before the grand jury and no indictment was found in relation to it. That related to a route in South Carolina, I think; it was a Southern State, I remember.

Q. Did you make any efforts to prevent his indictment?—A. No, sir; not other than I have told you, with one exception, and I cannot say that that was an effort to prevent his indictment. I went to Colonel Cook while he was counsel for the United States, and inquired of him if Dr. Colegrove's name was amongst the parties who were likely to be indicted, and he informed me that he could not say how that was, but that his name was amongst those who were being investigated or who were to be investigated. I told him that I had been looking into these matters somewhat, and it did not seem to me that there was anything that he ought to be indicted for. Well, he told me that he knew nothing about the case; that it had not been reached for investigation, and would not be for some time; but when it was, I asked him if he would have any objection to seeing Dr. Colegrove and talking with him in relation to it. He said that he could not say at that time, but the policy of the Department of Justice, as he understood, was not to indict anybody who ought not to be indicted; and that so far as anything he knew then, he would be willing to see Dr. Colegrove and converse with him whenever the matter was reached, but he was too busy then to take up matters until they were reached in their regular order. That was the only conversation I ever had with Colonel Cook about it, and during the time he was representing the Government in those matters the case was not reached. At all events I heard nothing about it after that time until a year, probably, after Colonel Cook's connection with the cases ceased, and the occurrence transpired which I related to you a few moments ago, when Dr. Colegrove came to me and told me they were about to send witnesses before the grand jury, or had sent them, or something of that sort, and wanted to know what I thought about his going to the Government counsel, and I advised him as I have told you.

Q. Did he pay you any fee, directly or indirectly, for this service by yourself or others?—A. No, sir.

Q. He did not?—A. No, sir. Well, now, I do not know what he may have intended. He paid me the money, as I understood it, for the services that I rendered him. These conversations about the probability or possibility of his being indicted were simply incidental matters that he mentioned to me from time to time while I was his counsel. He certainly never paid me, nor I never demanded any pay for anything I advised him in relation to those matters as a separate matter, nor did I make, in any charges I ever made against him, any charge for anything of that sort; I considered it merely an incidental matter.

Q. What was the nature of the other business that you did for him; did you bring any suits?—A. No, sir; I cannot say that I brought any, personally. The suits that were brought up in Pennsylvania were brought under my direction and upon my advice, but I did not prepare the papers, because I did not have knowledge of their practice up there which was sufficient; he employed local counsel there to act in connection with me.

Q. Did you give a written opinion in the case?—A. Yes, sir; I gave a written opinion in the case, and corresponded with his counsel in Pennsylvania in relation to it, and there was considerable testimony to be taken here in Washington.

By Mr. FYAN:

Q. Who was his counsel; who were the suits brought by?—A. I am not able to give you the names here; I can get them at my office.

Q. In what county were they brought?—A. I cannot remember the county.

Q. Who brought suits against him in Missouri?—A. I cannot give you the names of the parties, but they obtained judgment in Missouri.

Q. In the United States or the State courts?—A. I think it was brought originally in the State court and removed to the United States court. There was a judgment obtained against him there, and Senator Vest has charge of it now. I had a letter from Senator Vest a few days ago, calling my attention to it and threatening suit against Mr. Colegrove here unless he paid it.

Q. How did he get service or attachment?—A. Dr. Colegrove used to live there and had some business matters there, and I think on one occasion when he was there they served him with the papers, or possibly they attached his property, and then he made a personal appearance there.

Q. Has he got property there?—A. I understood that he had.

Q. Where?—A. I do not know. I understood that he had property there at that time; whether he has any there or not I do not know.

By the CHAIRMAN:

Q. Do you know the names of the parties?—A. I do not know the names of the parties, though I have papers in my office that I think would show the names of the parties there, and the court in which it was obtained. Senator Vest represents the parties who got the judgment against Dr. Colegrove.

By Mr. FYAN:

Q. Who made application for the change of venue—Dr. Colegrove?—A. I do not know anything about that.

Q. He got the change because of non-residence, because he was a resident of another State?—A. Yes, if he got it. Mind you, I do not say that he did.

Q. I understood you to say that he did.—A. I say I have a sort of general impression that the suit was brought in the State court and then removed to the United States court, but I may be in error about that; that was only the impression I got from Dr. Colegrove. I had nothing to do with the suit there, but I learned from Dr. Colegrove that judgment was obtained against him there very much to his surprise; he did not expect they would succeed. But the judgment was obtained for a sum much larger than he supposed he was liable for.

By the CHAIRMAN:

Q. How much was the amount of the judgment against him?—A. I think it was about \$1,800; that is my recollection.

By Mr. FYAN:

Q. What were these suits for; was he the original contractor or subcontractor; were they brought by contractors or citizens; what were they about?—A. The suit in Missouri, as I understand (I have not seen the record, and all I know about it is information I derived from Dr.

Colegrove in talking with him about it), was brought by some subcontractors of his who claimed that he was liable to them in damages for services in carrying the mails there. There was a controversy between them in relation to it.

Q. These suits that were brought in Pennsylvania, were they against contractors?—A. The suits that he brought in Pennsylvania were against his subcontractors, who had undertaken to carry the mail on certain routes for certain sums and had failed to do it.

Q. Had they sublet them to the Missouri men?—A. Oh, no; they had no connection with each other; the Pennsylvania and the Missouri suits had no connection with each other at all. I may be in error about the suits being in Pennsylvania. Since I began to speak about it, it seems to me they were in Northern New York instead of Pennsylvania. But I have memoranda at my office by which I can find out in what courts they are there, and whether in Pennsylvania or New York; I am not quite certain in relation to it. It has been some two years since the suits were brought, or three years, I think, since they were brought, in Pennsylvania or New York, and I do not remember distinctly which State they are in. The Missouri case was an earlier one even than the New York cases. It was pending there, as I understand, in Missouri, when I first became acquainted with Dr. Colegrove. That was among the first things he ever consulted with me about.

Q. What part of Missouri did he live in?—A. I do not remember. It is some years ago since he left there. He has been living here in Washington ever since I knew him, and, I understand, some years before.

By the CHAIRMAN:

Q. Did you give a written opinion in the Missouri case too, as to Dr. Colegrove's rights and liabilities?—A. I do not remember; I do not think I did, for when he first consulted me that suit was then pending; he was then defending it, and I think his consultation with me was in regard to some points of the defense, as to what witnesses he would need at the trial, and what facts he would wish to prove. I think that my only connection with that case was first to advise with him about what he would need at the trial, and secondly as to a defense to be made against the suit that should be brought here upon the Missouri judgment, if one should be brought.

Q. Your entire services, then, to him were in matters of consultation and not in regard to the bringing of suits?—A. It was something more than consultation, for I did a good deal of work for him in the way of corresponding with counsel who brought the Pennsylvania or New York suits. I have done considerable work for him in the way of corresponding with his subcontractors in the West, some of them. I remember an instance now, where a subcontractor threatened to sue him here, and sent his claims to a firm of lawyers in this city, and he was written to and came to me, and I had to write West and investigate the matter. I had several consultations and considerable correspondence, and finally advised him that he was not liable to pay the demand, and to stand suit. I so advised the lawyers here who had charge of the matter and they did not risk the suit; at all events they never sued him.

Q. These were all merely civil suits?—A. Yes, sir; they were civil suits.

Q. In which you were engaged for Dr. Colegrove?—A. Yes, sir; and Dr. Colegrove's wife has a separate estate of her own, and some years ago, some of the first business I ever did for him when I was introduced

to him by Mr. Coleman, was to advise him in relation to her rights in that property and how she could transfer it. She desired to make a transfer or exchange of it and to sell that property, and I drew the papers, and some of the contracts between her and the parties who built her house; and, as I go on to talk, I remember that there were twenty, twenty-five, or thirty matters that I advised Dr. Colegrove about, from first to last.

Q. In the matter of services to his wife you have received your compensation in the fees that you have stated that you received from him?—A. Yes, sir; I never received anything directly from his wife. He always came directly to me in relation to those matters, and I only saw her when it was necessary to have her execute the papers, and so on.

Q. When were these payments made for services in the Pennsylvania, Missouri, and New York cases?—A. The \$200 or \$250, which was first paid, was understood to be a sort of general retainer for me to look after his business, and when I thought I had rendered services enough to cover that he would pay me more.

Q. When was that first retainer paid?—A. As I tell you, I cannot fix the date now; I might, possibly, if I were at my office. But it was not far from the time that I was retained by Mr. Rerdell.

Q. It was during the trial of the first star-route case?—A. No, sir; it was prior to the trial, because Mr. Rerdell employed me a few days prior to the trial, and I think Dr. Colegrove employed me a few days before Mr. Rerdell did. But it may have been a considerable time before; I am not positive about the time. That original employment by Dr. Colegrove, and indeed all matters connected with Dr. Colegrove, was entirely out of my mind when I came here this morning. I had not thought of him at all, and therefore what I have said is purely from recollection of matters that occurred, some of them, three or four years ago, without any data to go by or anything to refresh my recollection.

Q. Are you in partnership now with any one, or were you at that time?—A. I have a sort of partnership with Colonel Cook, and have had ever since the 1st day of January, 1880.

Q. What do you mean by "a sort of partnership"?—A. I will explain to you just what our arrangement is. When I first came to Washington I went into the office with Colonel Cook without any understanding between him and myself about it, except that he had a large practice, a great many cases on hand, and he was in failing health at that time, and not able to devote much time to the cases. He permitted me to go into court and take charge of his cases precisely as if they were mine, introduced me to his clients, and I took charge pretty largely of the civil cases. I had nothing to do, and never had anything to do, with Colonel Cook's criminal practice. That is very considerable here at this bar, and I have had nothing to do with it. I never have been associated with him in a criminal case, and have never received any part of the fee that he has ever had in a criminal case, whether he appeared for the Government or against it.

Q. Did you divide with him the fees that you had in these cases?—A. I will tell you in a moment, if you will let me go along in my own way, just what the arrangement was. I continued in that way to do a great deal of the work, most of the work of preparation, and always participated in the trial, or took part in the trial, of important civil cases in court up until, as I remember now, the 1st of January, 1880. We had no arrangement as to fees or what I was to receive at all, but whenever a case was settled and the fees realized out of it he would suggest that I ought to have such a part of the fee, and we

divided the fee in each case along in that way and never had any difficulty about it. We understood each other, and I was always satisfied with what he suggested I might keep out of the case. My main point was to become acquainted with the bar and with clients, and to familiarize myself with the practice in the District of Columbia rather than to consider the matter of fees for these first few years.

Q. Was that in civil and criminal cases both?—A. It was only civil cases. As I said before, and I repeat again, from the time I first came to Washington to the present time I never have had any interest in any criminal case that Colonel Cook has ever been interested in or tried, whether he appeared for the Government or against it. And I have none of his criminal practice to day. I believe it is safe for me to say that I have not appeared as counsel in more than half a dozen criminal cases since I have been in Washington, and in those I have been employed entirely separate from Colonel Cook. His clients understand that they do not secure my services when they employ him in criminal cases.

Q. But they do in civil cases?—A. Yes. On the 1st of January, 1880, Colonel Cook and I made a permanent agreement or arrangement that has continued down to the present time, that as to all new business from that time, new cases, actual cases in court, I was to have one half and he one-half of the fees.

By Mr. FYAN:

Q. While Colonel Cook was employed as Government counsel——

A. (Interposing.) If you will allow me to get through with my statement I will be glad to answer that?

Mr. FYAN. I beg pardon; I thought you were through.

The WITNESS. That arrangement applied only to civil cases where suits were actually brought or defended in court. In criminal cases where he was retained I was to perform no services unless I saw fit to do so, and was to have no part of the fees. In all office business that came to me, in business that I did that did not result in actually bringing suits in the courts of the District of Columbia I kept all the fees, and he did the same thing. That was our arrangement, and it has continued down to the present time. Now I would be glad to answer any questions.

Q. While Colonel Cook was acting as counsel for the Government did you defend any of the parties against whom indictments were found or were likely to be found?—A. No, sir.

Q. Were you employed by any of the defendants?—A. No, sir; not while he was Government counsel. He resigned in March, 1882, I think it was, and I was employed the latter part of May or the first of June following. I do not remember the year, whether it was 1881 or 1882.

Q. You were employed by whom?—A. By Mr. Rerdell.

Q. How much did Mr. Rerdell pay you?—A. He paid me \$2,500.

Q. He was not indicted was he?—A. Yes, sir; he was indicted at that time, and it was understood then that the trial would come on in a few days.

Q. Did you divide any portion of your fee with Colonel Cook?—A. No, sir; I did not.

Q. Did you consult with him about that case?—A. No, sir; I did not consult with him about it; but after I had been employed, I knew that he had been counsel some years ago in General Babcock's case where the charge was conspiracy, and I knew he had investigated the subject pretty closely, and I asked him if he had a brief or anything to give me,

or a reference to some authorities, and he furnished me his brief that he made in General Babcock's case.

Q. Do you mean the Saint Louis whisky case?—A. Yes, sir; the Saint Louis case. He did not appear there in that case to argue it, but General Babcock was indicted here also, as you will remember, and he tried the case here and made a brief, or he and Mr. Storrs did together; I think Mr. Storrs's name is on the brief also.

Q. Who paid you that \$2,500?—A. Mr. Rerdell. It was paid in this way: Mr. Rerdell brought me a sight draft drawn by Stephen W. Dorsey on Mr. Bosler for \$2,500.

Q. Who employed you?—A. Mr. Rerdell.

Q. In person?—A. Yes.

Q. Who was with him at that time?—A. I am not certain that anybody was, and yet I have a sort of impression that Mr. Boone was with him at the time.

Q. Were you acquainted with Mr. Bosler?—A. I never saw Mr. Bosler in my life, and would not have known him if I had seen him.

Q. And the \$2,500 was a draft drawn by Mr. Dorsey on Mr. Bosler?—A. Yes.

Q. Who cashed it?—A. It was cashed by Mr. Bosler, I imagine. I put it in bank and collected it through the bank.

Q. What bank?—A. I sent it to a friend of mine in New York, and he collected it through the bank. I do not know what bank he collected it through.

Q. Mr. Bosler lived at Carlisle, Pa.?—A. Yes, sir; at Carlisle, Pa.

Q. What is the name of your friend in New York?—A. Storrs.

Q. Do you know his address?—A. Yes; Samuel J. Storrs. He has an office in the Equitable Building, at No. 120 Broadway, New York. I had some financial transactions with him, and I sent him the draft and requested him to collect it through the bank and send me his check for it, and he did so.

By the CHAIRMAN:

Q. Did not Rerdell tell you that ex-Senator Dorsey was furnishing money for his defense?—A. Yes, sir; I so understood it. I understood from Mr. Rerdell that ex-Senator Dorsey owed him a large sum of money, and that he had been trying to get him to pay it and had not been able to get it out of him, and that this money that was paid to me was a partial payment by Dorsey to Rerdell of money that he owed him. Rerdell also claimed that Bosler was largely indebted to him for services rendered that he had not paid him for. I know nothing about the facts myself.

By Mr. FYAN:

Q. What was the date of that draft?—A. I do not know.

Q. Well, approximate it.—A. It was some time in the latter part of May or the early part of June of that year that the star-route case was first tried, and my recollection is that was 1882.

Q. Do you mean when you were employed?—A. Yes, sir.

Q. It was before you appeared for him in court?—A. Yes, sir; I would not have appeared until I had my retainer or had it secured. I told him I must either have the money or have it secured, and he brought me this draft.

By the CHAIRMAN:

Q. Can you tell why it was that he went outside of the attorneys employed by Mr. Dorsey for his own defense?—A. I can tell you the

reason that he gave me, though I do not know whether I ought to; whether it would be disclosing things that counsel ought to disclose or not. I submit that to you, gentlemen. If you say that it is not improper, I have no objection to telling it.

The CHAIRMAN. We do not know what it is until you state it. It is for you to determine whether it is or not.

The WITNESS. It does not seem to me that there can be any objection to it; I certainly have none myself. I would much prefer however, before I tell it, that Mr. Rerdell should say that he had no objection. I do not know where he is, however. I think the reason he gave me was a proper one and a commendable one. He seemed to be laboring under the impression that possibly when they got into the trial of the case and developments were made, that if he was not represented by counsel who were not employed by somebody else, an effort might be made to clear others at his expense, and for that reason he said to me that he wanted somebody in the case who would represent him and nobody else, to look out for his interests and see that he was properly treated through the trial by other defendants.

By Mr. FYAN:

Q. He was convicted, was he not?—A. Yes; the first verdict convicted him and a man by the name of Minor.

By the CHAIRMAN:

Q. Did you make an argument in his behalf before the jury?—A. No, sir.

Q. Did he desire to let the matter go by default?—A. Yes, sir.

Q. Had he made up his mind, then, to plead guilty?—A. No, sir.

Q. Why did he allow the matter, then, to go without a contest?—A. It was determined in a consultation where Rerdell and I think pretty much all the other defendants were present, and the counsel of all parties, that in view of the fact that Rerdell had at one time made what was said to be a confession, that the more he was kept in the background during the trial the better it would be; not to make his part of the defense conspicuous.

Q. Were you present at that consultation?—A. Yes, sir.

Q. Did you agree to it?—A. Yes; it seemed to me to be the true policy.

By Mr. FYAN:

Q. Did Rerdell say that he had made this confession with any hope or promise of immunity on the part of Government counsel?—A. He said to me that at the time he made it he had reason to believe that if he did make it it would not only stop everything as against him, but all the balance of the parties.

By the CHAIRMAN:

Q. To whom did he refer, to all the parties?—A. To the other persons who were indicted with him.

Q. Do you mean Dorsey, Brady, and Vaile?—A. That is what I understood him to say.

Q. Will you repeat that again? I did not exactly catch the force of it.—A. The statement that he made was that he hoped by making the statement, and had reason to believe, that the making of it would stop all further proceedings against him and the others.

By Mr. FYAN:

Q. Did he say that the parties who made it held out that inducement?—A. No, sir; I do not think he did.

Q. Or left that impression on his mind?—A. He left the impression on my mind that some person that he supposed had the power and authority to do so had made him that promise, but he did not tell me who it was.

By the CHAIRMAN:

Q. Did Rerdell consent to this arrangement by which he was not to have his case presented to the jury in the first trial?—A. Yes, sir.

Q. Why was it that you agreed to go in and consult with the other counsel when he had employed you for the purpose of having his case separately defended; for fear the other people would sacrifice him?—A. It was understood from the beginning that we would all consult together and would all act together for the good of all. His object in employing separate counsel, as I understood, was to have some person that he could rely upon that he knew was not interested for anybody else, and whose judgment in relation to the matter should not be biased by having any other person's interest in charge. I did not understand that Rerdell had any suspicions against the other defendants or their counsel, but that the other counsel having other interests at stake, their judgment might be biased by that fact, and he wanted some person who should not be interested for any other defendant, so that he might have the unbiased judgment of that man.

By Mr. FYAN:

Q. When was this trial?—A. It began early in June.

Q. When was this consultation?—A. Oh, the consultation was after the evidence was all in; that is the consultation that resulted in determining that no speech should be made to the jury for Rerdell.

Q. As I understand you, when he employed you it was in May, you think?—A. Yes, sir.

Q. It was either in May or June, and he paid you \$2,500, and he did that because he was fearful lest the others would throw off on him?—A. That they might.

Q. And then immediately after he had paid you that \$2,500 he came to the conclusion that he did not want to be represented at all, but would rely upon this promise that had been held out?—A. Oh, no; you are mistaken about that. It was months from the time that he employed me before the consultation I speak of. We were all the months of June, July, and a part of the month of August putting the evidence in in that case, before we got to the point where we came to consider the question of the argument to address to the jury.

Q. Then in the month of August, after the evidence was in, he changed his mind?—A. No; he did not change his mind. Rerdell was present at the consultation, and we determined what would be the best course, and who should make speeches to the jury and who should not, and it was determined there that certain counsel should speak and certain others of them should not.

Q. He concurred in that?—A. Yes, sir; he concurred in that.

Q. He did not want to be specially represented, then, by counsel in the argument?—A. Not in the argument he did not, particularly. In the argument on the law and the instructions to the jury I participated.

Q. Were you present when the evidence was taken in court?—A. Yes, sir; I was there every day while the evidence was being taken; every hour.

Q. Did you ask any questions?—A. I do not remember whether I

cross-examined any witness or not; I think I did; two or three of them whose evidence was specially aimed against Rerdell; but I am not positive about that.

Q. Did you make any argument on legal propositions?—A. Yes, sir; on several, and I prepared a somewhat elaborate argument upon what I considered to be the leading proposition in the case, and was ready to deliver it, but the judge shut off discussion upon that subject by saying that he had determined to submit certain evidence to the jury, and there were no arguments delivered upon that point. Perhaps I ought to explain that a little more fully. In the early part of the trial they offered that confession of Rerdell's. Colonel Ingersoll, who appeared for some of the other defendants, made a short argument against its admission as evidence, and the judge who was presiding sustained the objection, saying if it was evidence at all it would not be until a foundation had been laid for it, until a conspiracy had been proven. The Government hereupon withdrew it, and gave notice that at a future stage of the trial, when they got further along, they would offer it again. Well, it seemed to me that that was the turning point in the case. As the evidence went along I digested it, and I digested the law and prepared what seemed to me, of course, a conclusive argument upon the law and the facts, to show that the facts did not tend sufficiently strong to prove a conspiracy to justify the court in admitting that confession. I had great confidence in getting the court so to hold.

Q. Now, right there, Mr. Cole, do you mean to say that, as a lawyer, you came to the conclusion that that confession was not admissible as against Rerdell?—A. Yes, sir.

Q. Or do you mean to say that that declaration or confession would not be admissible as against the co-conspirators until a *prima facie* case of conspiracy was established?—A. I say both.

Q. On what ground do you say it was not admissible as against him?—A. I will tell you. I will show you that the court and the Government counsel in that very case, before they got through with it, supported that position and came around to it. That was a trial for a conspiracy and there must be more than one in a conspiracy. In order to convict of a conspiracy you must show that more than one person conspired. Rerdell confessed what they said amounted to a conspiracy between himself and certain other individuals named. Now, you cannot convict Rerdell of that conspiracy unless you prove that some of the other persons mentioned by him in his confession conspired with him. That is the position I took. And I took the position further, that the evidence introduced failed to show conspiracy on the part of any of those persons mentioned in Rerdell's confession, with him, and that, therefore, his confession was not admissible against them, and therefore not admissible against him, because he could not conspire with himself. As I said before, I had very great confidence in convincing the court that that was the law, and I believe to-day that if the court had listened, I will not say to my argument, but if the court had listened to the counsel on that point, I believe the case would have gone off on that point; and I believe if there had been a conviction and the case had been finally taken to the court in banc, that the court in banc would, of necessity, have sustained that position. There was not evidence enough in that case, when you take it altogether with its explanations and details, I say there was not evidence enough to justify any court in saying that it was sufficient to prove a conspiracy. I do not pretend to know or say whether anybody stole money from the Government or got it improperly, or whether there was extravagance, I do not

know about that. But I do undertake to say, as a lawyer, that there never was evidence enough in that case to go to the jury upon the question of a conspiracy.

Q. Colonel Cook did not appear in the court as counsel for the Government in this case?—A. No, sir; he had resigned before that time. Now, at the second trial, to illustrate what I state as the law, and as the court and the Government counsel finally understood it, Rerdell on the second trial confessed, he plead guilty of conspiracy, and it stands there of record, and the jury went on and tried the case and they brought in a verdict of not guilty as to the others. So that the jury found there was no conspiracy. Thereupon the Government counsel said, "Why, of course, we cannot let this confession stand here against Rerdell," and upon their motion—the motion of the Government counsel—Rerdell was allowed to withdraw his plea of "guilty," and plead "not guilty;" and then they entered a *nolle* as to him, sustaining the original position which I took in the case, and which was taken by other counsel too. I do not say I originated it, by any means; but I did prepare an argument on which I spent more time than on any other argument I ever presented to a court, and, for a wonder, I was pretty well satisfied with it myself, and I did want a chance to get it to the court, but I could not, and it will have to go down to my posterity among my archives.

By the CHAIRMAN:

Q. How can you reconcile the verdict of the first jury with the facts as proven before the jury?—A. I think the first verdict was entirely erroneous, that Rerdell and Minor were guilty——

Q. And the men with whom they conspired not guilty?—A. Yes, the verdict was inconsistent. There has been a good deal said about the juries of the District of Columbia, and I do not desire to be understood as reflecting upon those men. Take that mass of testimony put in before that jury, and the confusing arguments of counsel and the charge of the court, and it is a wonder to me that a set of men could make anything at all out of it. I do not think that the jury ought to be reflected upon because they found a verdict which to a lawyer must certainly seem to be inconsistent.

Q. Did you divide the fees in civil cases that you attended to with Colonel Cook?—A. I did.

Q. The fees that you received from Dr. Colegrove and Mr. Coleman?—A. No, sir; not the fees I received from them, because they were not in cases in the District of Columbia, and were not embraced in our arrangement.

Q. Did you make any division of those fees with Colonel Cook?—A. No, sir; he got none of them. That was for advice and office business I did, and that belonged to me.

Q. Did you say to Mr. Coleman that any portion of it would also secure the services of Colonel Cook?—A. No, sir; I did not.

Q. Or that you would divide any portion of your fee with him?—A. No, sir.

Q. Do you know whether any efforts were made to influence the jury in the first or second star-route cases other than through the efforts of counsel in open court?—A. No, sir; not of my own knowledge. Of course I heard a good deal said about attempts to influence the jury, both on the part of the Government and on the part of the defendants.

Q. You refer to what was current in the newspapers?—A. Yes, sir; that is all.

Q. Anything specially besides that?—A. No, sir; nothing more than what was heard by everybody on the streets. No one ever suggested anything to me about attempting to influence the jury in any way, shape, or manner.

Q. Do you know whether any of the papers in relation to the star-route trial, while in the custody of Colonel Cook, reached the possession of any of the defendants or their friends?—A. Not to my knowledge; but that question gives me opportunity to say something in relation to what I have seen insinuated here in the testimony of some of the witnesses who have testified before this committee to the effect that the defendants got papers and information in relation to the cases through me out of Colonel Cook. I want to enter the most positive denial of that. I never saw a paper, or copy of a paper, relating to these star-route cases, any of them, whether they were those connected with the indictment or otherwise, until I saw them at the trial table on the trial of that case. I never saw any any place else. If Colonel Cook ever had any in his possession, I never saw them. I do not know whether he ever did or not. I never received any information from him in relation to the facts in the cases at all in one way or the other. I never asked him for any and he never volunteered any.

Q. Was ever any fee or money received by you, directly or indirectly, from persons who had contracts in the star-route service, divided with Colonel Cook in your settlement with him?—A. No, sir.

Q. Or in any way accounted for to him?—A. No, sir; the only money I ever have received from any of those men who were connected with the star-route matters was that I received from Rerdell and Dr. Colegrove. Mr. Cook never received, directly or indirectly, in any way, shape, or manner, the benefit of a cent of that money.

Q. In either case?—A. In either case.

Q. Or in any other case?—A. No, sir; it was my own, under our arrangement, and there was no reason why he should have a cent of it, and he never did have.

Q. And the star-route defendants, I understand you to say, received no papers through you out of his office at any time?—A. No, sir; they never received any papers from me relating to those cases. I never had one in my possession, either an original or a copy, except as I took it in my hands as I was sitting at the trial table and examined it.

Q. Did you render ex-Senator Dorsey any service during this time from the fact that you knew that he was furnishing Rerdell the money with which he was making his defense?—A. No, sir; I never rendered ex-Senator Dorsey any service of any kind or character in these or any other cases, nor any other man who was indicted except Rerdell.

Q. Were you engaged in the defense of the Kellogg case?—A. No, sir.

Q. Was Colonel Cook, do you know?—A. No, sir; he was not to my knowledge. I know before Colonel Cook was Government counsel in these star-route cases, that he was Senator Kellogg's counsel generally, and did all his business for him pretty much, except in his election contest here, when I think Shellabarger & Wilson represented him. I will add that after Colonel Cook had been in these star-route cases, and Mr. Kellogg was indicted, while I of course cannot say positively that that is the fact, my decided belief is that he was not retained by Mr. Kellogg in that indictment at all. Of course it might have been done without my knowing it, but my understanding was that he was not his counsel in that case.

Q. Were you informed that Colonel Cook was offered a large retainer

to act in behalf of the defendants in the star-route cases?—A. I was so informed; I do not know anything about it.

Q. So informed by him or other parties?—A. I am not certain whether Colonel Cook ever informed me that he was offered a large retainer by them prior to being engaged by the Government or not, but I know that several other parties told me that Colonel Cook had been offered a very large retainer after they learned that he was about to be employed by the Government, if he would reject the offer of the Government and take their cases. Colonel Cook may have said that to me himself, but I will not say that he did. I have no present recollection that he did tell me so, but I heard it from other sources.

The committee then adjourned until Saturday morning, June 7, 1884, at 10 o'clock a. m.

WASHINGTON, D. C., *June 9, 1884.*

CHARLES D. COLMAN sworn and examined.

By the CHAIRMAN:

Question. Please state your age, residence, and occupation.—Answer. I am sixty-seven years of age; my occupation is that of an attorney and counselor at law, and my residence at present is Plymouth, Mich. I came to Washington upon a telegram from this committee.

Q. Were you at any time attorney for Dr. Colegrove?—A. I have been his attorney, but not recently.

Q. When were you his attorney?—A. A good many years ago I was, when we, both of us, lived in Saint Louis. But I acted as a friend of his in a matter here.

Q. State what that matter was, and in what capacity you acted; what was done. First, I believe he was a contractor in the star-route mail service, was he not?—A. He was said to be a contractor; I understood so from him, and I understood so otherwise, that he was a contractor in the mail service.

Q. He was one of the persons about whom there was a probability of an indictment being found, was he not?—A. Well, there was some apprehension of that kind, that he might perhaps be proceeded against, and he desired to avoid that, and came to me as an old acquaintance and friend, and I interceded for him.

Q. State what you did in that way, and what he did.—A. I went to Mr. C. C. Cole and desired him to see what he could do.

By Mr. VAN ALSTYNE:

Q. Mr. Cole is an attorney-at-law?—A. Yes, sir; he is an attorney-at-law in this city, and was the law partner of William A. Cook, whom I knew at the time was engaged as counsel for the Government in the prosecution of these cases. I went to him for reasons which I thought would be effective.

By the CHAIRMAN:

Q. What were those reasons?—A. I thought Mr. Cole might influence Mr. Cook.

By Mr. FYAN:

Q. To prevent the indictment?—A. Yes, sir; prevent the indictment.

By the CHAIRMAN:

Q. State what you did in the premises.—A. In the first place, Dr.

Colegrove came to me, as I have before stated, as a friend, and wanted to know if I could do anything for him, and I told him I thought I could; that I knew Mr. Cole, and knew that he was an associate of Colonel Cook's, and that I thought that I could aid him, but that it would require money, probably. I went to Mr. Cole and conferred with him upon the subject. He told me that he thought he could aid him, and I saw him go from the room in which we were into the adjoining room and have a conference with Mr. Cook. He came back and informed me that he would be able to help the doctor, and that he would want, in the first place, so much money—\$500 was the amount first spoken of, but he afterwards got, I think, more than that; I think he got \$750.

By Mr. VAN ALSTYNE:

Q. In addition, or all told?—A. All told, so far as I know.

By Mr. FYAN:

Q. Who paid him this money?—A. Dr. Colegrove, as I learned from both of them. I did not see the payment, as I recollect.

Q. Mr. Cole told you that he got that money?—A. Yes, sir; Mr. Cole told me that he got that money, and he also told me that he divided with Mr. Cook.

By the CHAIRMAN:

Q. What time was this; can you give the date of it?—A. I cannot precisely, but it was just about the time these indictments were being predicted.

Q. Was it at the time when Mr. Cook was in the Government service?—A. Yes, sir; it was at the time when Mr. Cook was in the Government service.

By Mr. VAN ALSTYNE:

Q. It was previous to the death of President Garfield, was it?—A. It was previous to the death of President Garfield. I know Colonel Cook went to New York, for he told me he was going there; it was during President Garfield's sickness at Elberon.

Q. He told you that during this interview?—A. I had several interviews. There is a man named Moore whom I think you gentlemen ought to get hold of. He was a confidential man, I apprehend, of William A. Cook's.

By the CHAIRMAN:

Q. What is his first name?—A. I cannot tell. He was a detective, and is an employé now in the Government service somewhere, so I am told. I know that he and Colonel Cook went off together.

Q. Where?—A. To New York, and I think to Elberon. I know they started to go. Of course, I did not see them go, but I understood they went.

Q. When do you say that Dr. Colegrove called upon you, having refreshed your memory?—A. I think it must have been before the death of President Garfield that he called upon me; I am very firmly convinced of that.

By Mr. FYAN:

Q. When was the money paid?—A. Five hundred dollars of it was paid at once. I know that Mr. Cole told me that he let Colonel Cook have \$250 out of that \$500 when Colonel Cook was going to New York.

By the CHAIRMAN :

Q. And that was before President Garfield died?—A. That was before President Garfield's death, according to my recollection, but after his assassination—after his wound.

Q. It was in the summer, then?—A. Yes, sir; it was in the summer of 1881, after the 2d of July. I know that on the 2d day of July, the day of his assassination, I was at Parkersburg, W. Va., attending the Federal court there when the news came, and of course it was a matter of astonishment to us all. I am not entirely certain whether Dr. Colegrove ever spoke to me before President Garfield's assassination or not; but I know it was during President Garfield's sickness that some of these matters transpired.

By Mr. FYAN:

Q. You went to Mr. Cole because he was a partner of Colonel Cook's?—A. I cannot help but say that, gentlemen.

Q. And at that time you knew that Colonel Cook was in the Government service?—A. I knew that Colonel Cook was in the Government service.

By the CHAIRMAN :

Q. And Mr. Cole went from your presence into the room where Colonel Cook was, and asked him about it?—A. Yes, sir; and came back and reported to me.

Q. Did he state how much he desired to be paid down, and what would be paid thereafter?—A. He demanded then \$500.

Q. Did he say then that he had to divide part of it with Colonel Cook?—A. I cannot say that he said at that time that he had to divide with Colonel Cook, but he said that he had to use money other ways than what he would retain himself. But he subsequently told me —

Q. (Interposing.) When did he subsequently tell you?—A. During that summer and fall certainly, because I had a good many interviews. I was here at that time, and I had interviews with him almost daily.

Q. What did he tell you?—A. That he had to divide with Colonel Cook, and that he had paid Colonel Cook money, a part of that received from Dr. Colegrove. I think he told me that he paid more than half.

Q. What did Dr. Colegrove tell you about it?—A. I do not think Dr. Colegrove ever told me anything about how the money was divided. I have no recollection of his ever having told me so. I saw Dr. Colegrove there at the office several times. He went there with me at first, and then afterwards I met him there, sometimes by appointment and sometimes accidentally.

Q. Do you know whether Dr. Colegrove was indicted or not?—A. He was not indicted, as I understand, and I do not believe he ought to have been. If I had supposed he deserved indictment I would not have interceded for him.

Q. He told you that he was a contractor, did he?—A. Yes, sir; he told me that he was a contractor, and he told me that he did not want the notoriety of an indictment, and would rather give something than to have the notoriety of it, although he said he could defend himself successfully. I had known him a good many years. We occupied an office together in Saint Louis for a year and a half or two years, and I suppose it was for that reason that he came to me, probably.

Q. Do you know what routes he was interested in?—A. I do not; I never inquired into that matter.

Q. Did he tell you?—A. I do not think he did. He may have told

me some of his routes. He had a large number of routes; *that* I recollect very distinctly, but the numbers of them I am unable to give you.

Q. He said he would rather pay to keep from being indicted than to pay for the defense?—A. Yes, sir; that he did not want the notoriety of it.

Q. He did not want to be published as having been indicted?—A. No, sir; he did not want it published.

Q. Did he tell you that he paid that money for this purpose?—A. I cannot say that he ever told me that in so many words.

Q. What did he tell you?—A. He told me that he had paid money, and I knew it was for that purpose, because I made the arrangement.

By Mr. FYAN:

Q. At this first interview with Mr. Cole, did you tell him it was your object to prevent his being indicted?—A. Yes, sir; that is what I told him.

Q. What other conversation occurred?—A. Why, I asked him if he could not prevent it through the instrumentality of Colonel Cook.

Q. What did he say?—A. He said he thought he could, and went and conferred with Colonel Cook, and came back and informed me that he could.

By the CHAIRMAN:

Q. What did you do then; did you inform Dr. Colegrove?—A. Yes, sir; I informed Dr. Colegrove, and we made an appointment and had a conference together.

By Mr. VAN ALSTYNE:

Q. You told him at this first interview that Mr. Cole required the payment of \$500 down as a retainer.—A. Yes, sir.

Q. And he subsequently told you that he paid that?—A. Yes, sir; and Mr. Cole told me the same thing, and I think told me he got \$250 more. I would not say affirmatively that Mr. Cole ever told me that, or I would not say affirmatively that he ever did get \$250 more; but such is my present recollection.

By Mr. FYAN:

Q. And he told you in addition to that, that Colonel Cook got the larger portion of what he got before?—A. That is my recollection of it. He certainly told me that he divided with Colonel Cook.

By the CHAIRMAN:

Q. When you came back with Dr. Colegrove, what took place in that conversation?—A. They had a conference, and Mr. Cole told Dr. Colegrove that he would protect him. I am very much of the impression that I was present when the money was paid over—such is my present recollection—when the \$500 was paid.

Q. He came there for the purpose of fixing it up?—A. He came there for the purpose of perfecting the arrangement. I went preliminarily and made the preliminary arrangement, and then Dr. Colegrove and myself went there together.

Q. That was at the office of Cook & Cole?—A. Yes, sir; at the office of Cook & Cole.

Q. Was Colonel Cook in the office at the time?—A. Colonel Cook was about. I know he was in the office when I had my first interview with Mr. Cole, because he went from his room into Colonel Cook's room, and had a conference. I saw him go, and saw him conferring with Colonel

Cook through the door, and he came back and reported to me. Of course, I did not hear what Mr. Cole said to Colonel Cook. I was not within hearing distance, but I was where I saw them.

Q. He came back and reported what?—A. That he could protect Dr. Colegrove.

Q. And then you went to Dr. Colegrove and had a consultation?—A. We made an appointment, I think, for the next morning.

Q. Did you stay with Dr. Colegrove until the arrangement was completed?—A. I have the impression that I was there until the money was paid over.

Q. Was anything said about Mr. Cole's having transacted other business for Dr. Colegrove?—A. Dr. Colegrove did not know him up to that time.

Q. Did you introduce him?—A. Yes, sir; I introduced him. Dr. Colegrove did not know him up to that time. I think he has transacted business for him since; I have so understood.

Q. Did this payment have any relation to any legal services rendered him in regard to suits in Missouri, Pennsylvania, New York, or anywhere else?—A. Not at all; it was for that, and for that exclusively.

Q. Was any other subject mentioned?—A. No other subject was mentioned at that time in my presence, nor was there as between me and Mr. Cole.

Q. When have you last seen Dr. Colegrove?—A. I have not seen Dr. Colegrove since prior to a year ago in March. I left here a year ago March, the 3d of March, I think, and I have been back here but once since until now. I was back here about the 1st of May or a little before the 1st of May. Other than that I have not been here since the first days of March, 1883.

By Mr. FYAN :

Q. That is all you know in relation to the matter?—A. Yes, sir; that is all I know in regard to it.

By the CHAIRMAN :

Q. Have you any written memoranda or diary which you kept at the time, by which you can refresh your memory as to the dates of the transactions about which you testify?—A. I think I have. I have always been accustomed to keeping a diary, and I think I kept one at that time, and that by referring to my diary I can give the dates of these transactions.

Q. Please then refer to your diary and state any matters which you find therein which will throw light upon the transactions referred to.—A. I will do so whenever the copy of this evidence comes to me for my inspection. What I did in this matter was done for a friend. I received no fee or compensation whatever for what I did.

The committee then adjourned until Tuesday, June 10, 1884, at 10 o'clock a. m.

H. Mis. 38, pt. 2—38*

WASHINGTON, *June 13, 1884.*

RICHARD T. MERRICK sworn and examined.

By the CHAIRMAN:

Question. Please state your occupation and residence.—Answer. I reside in Washington; I have been practicing law thirty years.

Q. Have you at any time been engaged in the service of the United States, and, if so, in what capacity?—A. I was commissioned as assistant attorney-general, charged with the duty of trying the star-route cases in, I think, the latter part of March, 1882. I think the date of the commission was the 31st of March, 1882.

Q. What was the purport of that commission?—A. It was a commission to me as special assistant attorney-general.

Q. When did you enter upon the discharge of your duties under that commission?—A. My impression is that I entered immediately upon the discharge of the duties. By reference to the printed record containing the arguments upon the questions of law preliminary to the trial of the indictment before a jury I find that I was in court on March 31. Before the issuing of that commission I had been, for some week or two probably, engaged in consultations with the counsel previously employed; it being then understood at the Department of Justice that I would accept the tender of the position that had theretofore been made to me.

Q. Was there any contract made between you and the Attorney-General with regard to your compensation, and, if so, what was it?—A. There was no special contract whatever with regard to the amount. My impression is that the commission said "at a compensation to be determined by the Attorney-General," and in the course of conversations with the Attorney-General upon that subject it was understood that he was himself to determine the amount, and I submitted to him at that time that I would, with great pleasure, accept his judgment in the premises, and hoped that if he did not entirely concur with me when any account of mine was rendered he would reduce or enlarge it, as the case might be, according to his judgment of the value of the services.

Q. At what amount did he fix your compensation after the services had been rendered?—A. The entire amount I had received at the time I retired from the cases was some \$37,000 or \$38,000—under \$40,000.

Q. Were you paid a per diem, or according to the service rendered in special cases?—A. I charged according to my services; making the charges as moderate as I thought they could properly be made, appreciating that full and adequate compensation could not well be paid for such services under the circumstances.

Q. Was there any allowance to you for personal expenses?—A. Oh, none whatever.

Q. Have you settled in full with the Department?—A. I have settled in full with the Department, and, by a failure upon my part to present a bill before the close of the last fiscal year for services rendered during the latter portion of that year, and by combining a charge for those services with that for services subsequently rendered within the present fiscal year, I think \$3,500 of my account was not paid. The Attorney-General suggested that it should go into the deficiency bill, and I told him I didn't want it so, and that if I had made a mistake, and they could not pay it, I would let it go.

Q. Have you received all you expect to receive?—A. I have received all that I expect to receive. For the amount that is yet due I shall make no demand.

Q. Please state the nature and extent of the services you rendered the Government; stating first how long you were employed.—A. I was in the service of the Government from the time indicated, that is, some few weeks before the date of my commission, down to the 31st of March, 1884, being two years. My position was, as I have stated, special assistant attorney-general, and my duty was, as designated by the Attorney-General himself, to represent him in these cases, as he could not give them the amount of personal attention which they required, particularly in the trial of the cases and as general counsel.

Q. Was it any part of your duties to decide questions as to who should be presented to the grand jury for indictment, or whether the evidence was sufficient in particular cases to justify the finding of indictments?—A. The duty of presenting the evidence to the grand jury and having the parties that were supposed to be guilty indicted belonged exclusively to Colonel Bliss; the preparation of the indictments belonged to Mr. Ker, and I was at hand to be consulted upon any subject upon which they might desire to consult me.

Q. Was it any part of your duties to examine the reports of the special agents of the Post-Office Department and to determine from them whether sufficient cases were made out against particular persons to justify an effort to have indictments found?—A. What was properly within the limits of my employment and belonged to my duty, of course the committee must determine from the statement I have made of the facts. My own judgment, concurring with that of the Attorney-General, was to the effect that I had nothing whatever to do with the preparation of the testimony to go to the grand jury, or with the presentation of that testimony to the grand jury. In fact the position which I occupied, under my commission, was one which did not justify me in appearing before the grand jury, nor would I have been allowed in their room under the law of the land; and, except in one particular, which may hereafter be developed in the course of this examination, I never went beyond the limits which I have indicated as those prescribed by my own judgment as belonging to the appointment. I will hand to the committee a copy of my commission, which was, if I recollect right, substituted for a commission which had some two weeks before been issued, but which was in some particulars erroneous.

The commission was produced, and read as follows:

DEPARTMENT OF JUSTICE,
March 29, 1882.

SIR: You are hereby appointed Special Assistant Attorney-General to aid in the prosecution of certain persons charged with being concerned in frauds on the United States in connection with what is known as the star-route investigation, at a compensation to be determined by the Attorney-General when the suits are ended. You will take the oath prescribed by law for district attorneys and transmit the same to this Department.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

RICHARD T. MERRICK, Esq.,
Washington, D. C.

Q. There has been some controversy in the testimony before this committee as to how it happened that the Dorsey-Brady case, the one that was actually tried, was selected for trial instead of other cases which have been mentioned. Can you explain to the committee what you know in reference to that?—A. Immediately after my appointment by the Attorney-General Mr. Bliss called to see me and we had a consultation in reference to the subject that we had in charge. That consulta-

tion, according to my best recollection, was principally about the Dorsey cases, although it was at the same time a broad consultation about these matters generally. An indictment against Dorsey, Brady, Vaile, and others was put in my hands. It seemed as if that case was then in front and had been already selected; and after a very careful examination of that case and two trials of it, without knowing fully what might have been developed in any other case, I certainly could not have desired a better case in which to secure a conviction.

Q. Were the indictments in that case prepared before you entered the Government service?—A. The indictments had been prepared before I entered the Government service and had been found. The first indictment in that case was found March 4, 1882. That indictment was therefore necessarily on the records when I came into the case. When it was placed in my hands and I examined it, I found that there were two or three defects in it, applicable to three of the defendants, namely, Rerdell, Sanderson, and Vaile, and I concluded that as to those three defendants the indictment was not good. Before I became perfectly familiar with all of the transactions that were to be developed in the trial, I had been fully informed in reference to Rerdell's admissions and confessions to Mr. MacVeagh and Mr. James, in the presence of Mr. Woodward, at the time of the commencement of these investigations, and, deeming Mr. Rerdell's presence among the defendants very important, I directed a new indictment to be found. I told Mr. Bliss that a new indictment would be necessary, and told Mr. Ker that a new one must be prepared; for, although there might be a question in my mind in reference to the legality of that indictment, I believed that the court would not sustain it as against those parties. I deemed Rerdell essential as a defendant, for the reason that his admissions made to Mr. MacVeagh, Mr. James, and Mr. Woodward were material as evidence. Appreciating that they would necessarily, by the court, be limited to himself, I also understood, as every lawyer will, that they would aid more or less in clearing up whatever evidence might be obscure in reference to the other defendants. In accordance with these directions another indictment was prepared, which was returned to the court on the 20th of May. Between the finding of that indictment and the instructions I gave to my associates in reference to it, we had many consultations about it, and the court was called upon to determine the very questions to which I have referred. It determined those questions and determined them as I have indicated I thought it would.

Q. Do you refer to the question with regard to indicting by the initials?—A. Yes; with regard to the use in the indictment of the initials of these parties, Rerdell, Sanderson, and Vaile. There was a mistake in the naming of Vaile. He was called Henry in the indictment, but his name was Harvey. There was some mistake, too, in the initials of Sanderson, and Rerdell was indicted by his initials, and not by his name. The counsel met for the purpose of consulting in reference to the form of the new indictment, and we were several hours together conferring upon that subject in one of the rooms of the Department of Justice, where we went carefully over the whole matter, and together determined upon the form of the new indictment, adding a number of overt acts not in the previous indictment and dropping out some overt acts which had been charged in it, but against which, in the mean time, the statute of limitations had run. We dropped Sanderson out, because there was no evidence connecting him with that conspiracy.

Q. Was that the reason why Sanderson was left out?—A. I do not remember any other reason except that I believe he was shown to be

interested in only a very small piece of one route among the nineteen that we intended to embrace in the indictment, and I think I found the evidence against him so entirely insufficient, and his relations to the case so unimportant, that I said to Mr. Ker, "Take it and do as you please with it," we all agreeing that Sanderson should be left out.

Q. Were you advised that Sanderson was connected with another combination, and should properly be indicted in connection with that?—

A. I do not remember any remark of that kind being made. It is possible that it might have been said that if he was indicted at all it should not be with this combination. We also had to be very careful not to embrace in the indictment for conspiracy any one that we did not certainly think to be in the conspiracy; to guard against any question on that point that might possibly arise before the court.

Q. Did you have your attention called at any subsequent time to the question whether an indictment should be found against Sanderson?—

A. I did not; I never heard the subject again referred to, nor did I ever afterwards hear Sanderson referred to in connection with the subject except incidentally in the course of the trial.

Q. Then I understand you to say that, while you do not undertake to pass upon the sufficiency of the evidence that may have been obtained in other cases, the evidence in this Brady-Dorsey case was sufficient not only to warrant an indictment, but a conviction?—A. I wish to be distinctly understood as saying that, whilst I know nothing about the evidence in other cases, I am familiar with the evidence in that case, and that it would have been a most extraordinary case indeed to which I would have given preference over that one as a strong case against the defendants. The evidence in this case satisfied me beyond all possible doubt of the guilt of all the parties, and I have seldom had occasion to try a case in court with the testimony in which I was more entirely satisfied. I speak of the Brady-Dorsey case.

Q. Are we to understand that your statement relates to the evidence that was actually adduced upon the trials?—A. It relates to the evidence that was actually adduced upon the trials; the evidence that was actually adduced upon the first trial as well as the evidence adduced upon the second; for, although the evidence for the Government was a little more elaborate upon the second than upon the first trial, the evidence on the first trial was all that any reasonable man could, in my judgment, require to convict.

Q. When you first passed upon the sufficiency of the evidence in that case to justify the Government in going to trial, had you taken into consideration the evidence of Mr. Walsh, or the fact that he was to be a witness in the case?—A. I had not.

Q. Did you deem the case sufficiently strong without his evidence?—

A. I deemed the case a perfectly good case without his evidence; but it was very important, and in view of the opinion indicated by the judge in the progress of the trial and the sentiment which seemed to pervade the public mind, his testimony assumed a degree of importance beyond that to which it was probably entitled as a mere matter of law. I may add that up to the time of the introduction of Mr. Walsh as a witness upon the stand, the judge who was presiding seemed to regard the case of the Government as quite insufficient, and it was partly demoralized. When Walsh was offered as a witness a very important argument took place upon the admissibility of his testimony, as the committee will see by referring to the record of the first trial, pages 1607 and 97, which I now have before me. We had, up to that time been putting in the records, which were so numerous and voluminous that it was very difficult for any

one who did not already understand the matter to apply them without a careful explanation, and by an aggregation of the facts which they developed, to apply the conclusion to the parties charged in the indictment. On that argument the theory of the Government's case was very fully developed by myself. It had been already developed by Mr. Bliss in his opening statement to the jury, which was elaborate and able, but it was again very fully developed there, and it met the expectation of the judge, and, apparently, of others, by furnishing an answer to the inquiry, "What has Brady to do with these transactions particularly? Where is Brady's motive? How are these parties united? Here are different acts which have been done by each of them, and these acts apparently have a certain relation to each other and look as though they tended to a common result, but that has not been sufficiently shown by this mass of papers which you have thrown down before the jury. We want something further than that." Now, Walsh's testimony explained Brady's motive, by developing his rule of conduct in dealing with the contractors, and showing that it was his uniform habit to charge them a certain percentage wherever he exercised his discretionary power of expediting a route. The argument upon this question of the admissibility of Walsh's testimony enabled us to develop our entire theory at a time when the minds of the jury and of the court were asking for light upon these papers they regarded as important material, but which they did not fully understand; and from that time forth the Government's case went on prosperously up to the verdict given by the jury.

Q. How did it happen that up to that time you had overlooked the fact that Mr. Walsh's testimony was material?—A. I do not know that I was fully informed, if informed at all, as to what Walsh could prove. I may have heard previously something of what he could prove in the case but it does not occur to me now. I endeavored to bring such information to my recollection, but I have been unable to do so.

Q. When did you first learn the fact that Mr. Walsh was a material witness for the Government in that case?—A. At some time in the progress of the trial I learned it, I think from Mr. Woodward, and possibly Mr. Bliss also may have spoken to me about it. After I learned of it we had a consultation about it. I know that before Mr. Walsh testified Mr. Bliss and I had a consultation about his testimony—a very full talk. Now, just *when* I first learned of it I do not know, but it was after the trial began, and my impression is that it was brought to my attention by Mr. Woodward. The discussion between Mr. Bliss and myself was in regard to the admissibility of the testimony, and we agreed that the testimony was admissible in the case for the reason that Walsh would say that Brady had avowed that the rule which he sought to apply to him (Walsh) was the rule applicable to all contractors, and therefore it embraced these contractors.

Mr. BLISS. But that statement was only obtained from Walsh after the trial commenced.

The WITNESS. That may have been.

Q. Had the appearance of Walsh before the grand jury about this time anything to do with bringing to your knowledge the fact that he was a material witness for the Government in the Dorsey-Brady case?—A. I cannot say that his appearance before the grand jury during or about that time had anything to do with informing me of his materiality as a witness in the Dorsey-Brady case; but having learned from Mr. Woodward what Walsh would prove (I think it was from Mr. Woodward), and having had thereafter this consultation with Mr. Bliss, we concluded that Walsh was an important witness. Having reached that

conclusion, I determined that he must be produced. I understood (although it is hardly proper for me to say what I understood and what I heard, for I desire to limit my testimony here according to the rules of law)—I understood that Walsh was reluctant to testify, and had said that he would not do so. I directed Mr. Woodward to bring about in some way an interview between Mr. Walsh and myself. Mr. Walsh was sent for, and, by what instrumentality I do not know, was brought here to the District of Columbia. Mr. Woodward informed me that Mr. Walsh was here, and at the same time I learned that there was ill-feeling between him and Mr. Bliss, or, I should say more correctly, that, for some reason or other, Mr. Walsh had some ill-feeling toward Mr. Bliss. Mr. Walsh being here, Mr. Woodward arranged for an interview between him and me, and I left the court-room in the midst of the trial to meet an appointment with Walsh at his room at the Arlington Hotel. Shall I go on?

The CHAIRMAN. Proceed, if you please.

The WITNESS (continuing). I found that I had met the gentleman before, and I immediately told him the object of my coming, which he probably knew already. I informed him that I wanted him to testify in the Dorsey-Brady case, and had come to learn from him then and there what he knew as to the case. Although I had already learned it, it was repeated by him on that occasion; but he said he would not testify in that case at all. Well, gentlemen, it is very difficult for me to go over a long interview like that in detail. It will be sufficient for me to say that, in substance, I endeavored to impress upon him the duty that he owed to the Government to testify, but what I said made very little impression upon him, apparently, and I asked the reason. He complained that he had been badly treated; he said that he had testified before the grand jury in reference to Mr. Kellogg, and that his testimony had been disregarded, that Colonel Bliss had cast reflections upon him at that time, that he felt that if he now appeared as a witness he would be unjustly dealt with, and that he would not consent to appear. I then asked him to tell me more in detail the circumstances that had given rise to his feeling in regard to Colonel Bliss, the particulars in which he had been badly treated, and what was the testimony that he had given before the grand jury which had been disregarded. He then gave me an account of what his testimony had been before the grand jury, and designated Colonel Bliss, whether justly or unjustly I do not know, as the cause why that testimony had been disregarded by the jury. I told him that what he had just said in reference to his testimony about Mr. Kellogg was new to me; that that was the first I had ever heard of it. He expressed his surprise and said that had been his testimony before the jury; that the other counsel in the case, Colonel Bliss, well knew all about it. It is possible that I may have at that time made some very harsh remarks in reference to the counsel, predicated upon the fact that he had kept this information from me. I do not recollect. I observe that Mr. Walsh has testified that I did speak harshly of Colonel Bliss. It may be that I did. I was certainly very much excited at the time, because I was extremely anxious that Walsh should testify, and I felt that if what he told me in reference to his testimony was true, a great criminal had been thus far allowed to escape punishment. I continued to urge him to testify in the Dorsey-Brady case, and said that I would see that justice was done to him; that he should have an opportunity of vindicating himself; that I would cause the grand jury to be reconvened, and that he should go before them again and give his testimony in regard to Kel-

logg, which would be the best vindication he could have. He said that if I would do that he would testify in the Dorsey-Brady case; that all he wanted was to be vindicated and fairly treated. I told him I would see that he was both vindicated and fairly treated, and would have the grand jury reconvened. Mr. Walsh did testify in the Dorsey-Brady case, as you are all aware.

Q. And the grand jury was reconvened?—A. The grand jury was reconvened. Mr. Walsh did go before the grand jury and he did testify in the Dorsey-Brady case, as you are all informed.

Q. Can you explain to the committee, in view of the sufficiency of the evidence as, you have stated, how it was that there was a failure on the part of the jury to meet your expectation?—A. I certainly cannot. I will say this, however, in connection with what I have already said in regard to the sufficiency—the ample sufficiency—of the evidence, that the jury was a very intelligent one, I think certainly equal to the average, if not above the average, of the juries in this or any other jurisdiction with which I am acquainted.

By Mr. STEWART:

Q. Do you refer to the juries on both trials?—A. No, sir; I speak now of the first trial; and in answer to the inquiry as to why there was a failure to obtain a verdict of guilty, I think that it would be proper to refer first to the verdict that was rendered.

Q. Will you please explain that?—A. A verdict was rendered finding John R. Miner and Montfort C. Rerdell guilty, the jury disagreeing as to the others. These parties had been indicted and were tried upon an indictment for a *conspiracy* to defraud the Government of the United States. The charge, you will observe, was *conspiracy*, and the burden was upon the counsel for the Government to prove a *conspiracy*. The court instructed the jury that, in the performance of their duty, when they retired for consultation, they should in the first instance consider the proof bearing generally upon the subject of the conspiracy—and that they should first determine whether there was a conspiracy or not, for, unless there was a conspiracy, no matter what frauds might have been perpetrated by the defendants individually, there could be no verdict against them.

“Having determined that there was no conspiracy,” said the court, in substance, “you must find the defendants not guilty; but if you determine that there was a conspiracy, then your next inquiry will be who constituted the conspirators, who were in that conspiracy; and you must find that there was more than one of the defendants, you must find that there were at least two, because there must be two at least in order to make a conspiracy. Having determined that there is a conspiracy, and having determined who were the conspirators, your verdict will be against those parties.” With that instruction the jury retired. They found Rerdell and Miner, as I have said, guilty. The finding of the verdict of guilty against Rerdell and Miner was necessarily predicated upon the finding of the existence of a conspiracy. Now, the evidence showed throughout that Rerdell and Miner had no direct and immediate relation with each other, but that their relation with each other was through Stephen Dorsey and John Dorsey and Vaile, and that Rerdell and Miner were in fact the subordinate instruments in the perpetration of these frauds, Rerdell having no interest in any contracts at all (or if in any, in one single contract in which he received his pay), but being Stephen W. Dorsey’s clerk; and Miner had been brought on here by S. W. Dorsey in conjunction with John W. Dorsey, and at S. W.

Dorsey's house, Miner, together with Rerdell and others in this conspiracy, and as their subordinates got up the whole scheme and devised the plans, the contracts, and the bids.

Q. Then the jury found the agents guilty and the principals not guilty?—A. The jury found the subordinates guilty of having conspired with each other, but they could not agree as to the principals, while the evidence showed that these subordinates had had no particular independent relation to each other, and that their sole relation to each other was one established by and through the principals. Now, when that verdict was found I regarded it as disgraceful to the records of the court and of the Government, and felt it to be my duty not to allow it to stand. It was rumored that the defendants intended to move to set it aside, and they did bring forward some insignificant motions which I did not oppose and which were overruled; but I was determined to get rid of that verdict, so I then made a suggestion to the court in regard to the matter, stating that I regarded the verdict as a disgrace, as one by which the United States could not stand, and that I did not feel justified in allowing it to stand, and I submitted as a reason for setting it aside that there had been certain irregularities in the proceedings in the jury-room. The court proceeded to inquire into the irregularities which I had indicated, and, being disposed to set the verdict aside anyhow, did set it aside.

Q. What were those irregularities?—A. A paper was said to have been read in the jury-room, prepared by one of the jurors, the reading of which, you are aware, would have been an irregularity which would have vitiated the verdict.

Q. Did you call the attention of the court to that fact?—A. I think I did.

Q. Did you produce the paper?—A. Oh, I could not produce the paper.

By Mr. STEWART:

Q. This was an intelligent jury, you say?—A. It was a remarkably intelligent jury.

Q. The jurors were rather too intelligent, were they not?—A. You must draw your own inferences.

By Mr. VAN ALSTYNE:

Q. They had more brains than virtue?—A. That the committee must determine.

By the CHAIRMAN:

Q. What was the nature of the irregularity established?—A. I find that among other things that I said to the court in relation to this matter was this, which appears on page 3271 of the record: "The verdict is thoroughly inconsistent with any rational theory as to the guilt of those found guilty, the rich are let go and the poor punished, the masters free and the servants in jail." I do not remember the details of this irregular transaction, and it is impossible for me to tell you now what they were. They are, I think, set forth in the printed record. Suffice it to say that I would not consent to allow that verdict to stand, and I got rid of it.

Q. You moved to set it aside yourself?—A. I do not say that I moved to set it aside. I told the court that I desired it set aside.

Q. Did the court on its own motion set it aside?—A. That I cannot tell you. Look at the record.

Q. Were these irregularities in reference to alleged attempts to bribe

the jury?—A. You speak of the paper that was produced in the jury-room?

Q. Yes.—A. The paper read had some reference to an attempt to bribe the jury. I think the paper is probably in the record, but I do not know.

Q. Did you make any efforts to ascertain whether attempts at bribery had been made?—A. Well, I did make such efforts as I reasonably could.

Q. Were those efforts of such a nature as to satisfy your mind as to whether the jury had been corrupted?—A. I must beg pardon, Mr. Chairman, but I would rather not express my own opinions. They are hardly competent evidence, and might do great injustice to other people. There are few subjects with which I have to deal about which I do not form opinions, and about which I have not tolerably decided convictions, but I would prefer to keep what I have to say here within the limits prescribed by the ordinary rules of evidence.

Q. As a lawyer, can you reconcile that verdict, the jury being an intelligent one, with any other hypothesis than that of venality or incompetency on the part of that jury?—A. Again that brings up an *opinion*, Mr. Chairman. I have given you the facts. I have stated that the jury was intelligent. I have stated what the evidence was. I have stated what the verdict was, and I have explained the verdict. Now, you are better able to draw the inference than I am.

By Mr. VAN ALSTYNE:

Q. I suppose it is a fact that you were almost dumbfounded at finding that the jury were unable to agree in reference to the other defendants outside of the two; in other words, you were surprised at the verdict rendered?—A. Why, necessarily, greatly surprised.

Mr. STEWART. Surprise is a mild term.

The CHAIRMAN. It is unnecessary to press my question, and I withdraw it.

By the CHAIRMAN:

Q. Now, please state how it happened that you used Rerdell as a witness in the second trial?—A. Rerdell had made an affidavit, which had been obtained from him by Mr. Woodward, which affidavit was submitted to me.

Q. Do you remember whether that is the affidavit or not [showing witness a paper]?—A. Yes, sir; I think this is the same. Rerdell's two statements are here.

The affidavits here identified were put in evidence, as follows:

Affidavit of Montfort C. Rerdell, of November 22, 1882, and supplementary statement of Rerdell of January 17, 1883.

My name is Montfort C. Rerdell. I was born in Montgomery County, Alabama, in 1841. My parents both died within two hours of each other when I was two months old. Till eleven years of age I lived with my grandmother in Richmond County, Georgia. At her death I was employed in different stores in Augusta, Ga., till I was fourteen, when I returned to Alabama to hunt for an uncle whom I never was able to find. Failing in my search I obtained employment on the steamer Tiger, on which I remained two seasons, having become second clerk. At sixteen I returned to Augusta where I remained till the outbreak of the war. I joined the Terrill Artillery, and was stationed at Savannah and vicinity till the city was captured by General Sherman, when I was made a prisoner. Within a day or two I took the oath of allegiance to the United States, and at once became a clerk to Capt. Logan H. Roots, of the commissary department. We remained in Savannah till the end of February, 1865, when Captain Roots was ordered to Morehead City, N. C. I accompanied him thither. In June, 1865, he was ordered to Washington, thence to Louisville, Ky., thence to Saint

Louis, Mo., thence to Devall's Bluff, Ark. I went with him, and we reached the last-named place August 1, 1865, having meanwhile been appointed his chief clerk. We stopped at Devall's Bluff till May, 1866, when the then Lieutenant-Colonel Roots was mustered out of the service. I remained in that vicinity with no steady employment till the passage of the reconstruction acts, when I became clerk to the board of registration for Prairie County. In March, 1868, I was elected sheriff of Van Buren County, and held the office till May, 1874, when I resigned and moved to Jackson County, Missouri. I there engaged in milling and speculating. In the next twelve months I lost over \$60,000 and became a bankrupt.

In August, 1875, I obtained a clerkship under the government of the District of Columbia through the influence of Senator S. W. Dorsey. My first acquaintance with Mr. Dorsey occurred at the time of his election to the United States Senate, in January, 1873, when my efforts contributed largely to his success. A part of his scheme contemplated the institution of a territorial government in the Indian Territory, wherein his special supporters were to have the choice of places.

In 1875 I also became private secretary to Senator Dorsey, without compensation, working nights and Sundays so as not to interfere with my other duties. This relation continued during his Senatorial term.

During the winter of 1877-'78 Senator Dorsey resided at 1121 I street NW. My office was in the basement of his house. At the same time John R. Miner had an office on the third floor of the same house.

My knowledge of the mail business began the night before the expiration of the period for receiving bids for the service to commence July 1, 1878. On that occasion I called as usual to write for the Senator. He had no work. On starting to leave I lingered at the door, when Miner came in from upstairs. Miner said, "Are you going off?" I answered, "Yes." He then asked me if I could not assist him about some work upstairs, without indicating its character. I hesitated, as my leisure evenings were few. Senator Dorsey then interrupted the colloquy, directing me to go upstairs and assist.

Miner and I proceeded to the back room of the third story together. Miner put me to work on what I found to be proposals for mail service. I was directed to fill in the amounts of the bids and also the spaces before the signatures of the notary or postmaster, or both, these having been affixed in blank.

According to the face of the papers the bidders were John R. Miner, John M. Peck, John W. Dorsey, J. H. Watts, and in some cases, perhaps, A. E. Boone. Boone was present a part of the time. When he left some one asked him what he was going to do. He replied, "I am going to work Texas to-night."

Senator Dorsey was in and out during the entire session. About midnight Senator Dorsey directed his house boy, Anthony Jones, to bring up wine from the cellar. Jones returned not only with the wine but also with a bottle of whisky and some slight refreshment. One of the company asked the messenger why he brought the whisky. "Because," he replied, pointing to me, "I knew that gentleman was from Arkansas." This shot at Arkansas became a sort of standing joke on me.

I have a strong impression that Mr. Dorsey did some writing on the proposals, perhaps to sign the name of Peck, but my recollection upon the point is too indistinct to justify me in speaking with more positiveness. I am absolutely certain, however, that Peck was not in Washington for six months prior or for six months subsequent to that time. I knew him well. There were present at different times during the night S. W. Dorsey, J. R. Miner, A. E. Boone, W. F. Kellogg, myself, the house boy, and no one else. Miner called off the amount of the bids on the different routes from a small book or other memoranda. It strikes me that Miner showed me the book afterwards while we were living in the same house, about the time of the rupture between him and Dorsey on account of Vaile. I learned afterward that all the writing filled in by me on that occasion should have been done before either the notary or the postmaster placed his signature upon the bids.

On my sudden introduction to the work going on in the back room of the third story I felt annoyed that Senator Dorsey, considering his obligations to me, had preferred others to myself. I had previously known that S. W. Dorsey, John R. Miner, A. E. Boone, and, for a short period, J. H. Watts, were having frequent consultations upstairs. I do not remember meeting John W. Dorsey till the spring of 1878—some weeks or months after the proposals were put in.

I had no further connection with the business till towards the end of June, 1878. About 10 or 11 o'clock one morning the house boy, Anthony Jones, came to my room in the District building on Four-and-a-half street with a message from Senator Dorsey to come to his house at once. I think this was the first time he ever sent for me. It was repeated but once afterwards. On both occasions I was struck by the unusual character of the proceeding. In response to the message I went at once to his house.

As soon as I arrived Dorsey handed me a large package of letters from the Post-Office Department, addressed, some to J. W. Dorsey, some to J. R. Miner, some to John M. Peck, and some to J. H. Watts. He inquired if I knew anything about mail mat-

ters. I answered "No." He then asked me to look over the letters and see if I could not take charge of the correspondence, as he either had or was about to take the business away from Boone.

My official duties now consumed scarcely an hour a day, and I quickly decided to comply with the request of the Senator. A day or two later he directed me to go to the house of Boone and get all the papers relating to the mail service of the above parties. Boone then lived on Second street, between Pennsylvania avenue and B street. I did as instructed, Boone not only delivering to me the papers, but also the wooden case of pigeon-holes in which they were kept. I carried the whole to the third story back room of Dorsey's house. Boone felt sour and aggrieved, but offered no obstruction. He talked savagely about the alleged perfidy of Dorsey, and swore he would have revenge. He was polite to me and during the next few days explained some of the general details of the business.

About July 6, 1878, Dorsey asked me if I could go to Dakota to aid his brother in putting service on the routes from Bismarck to Tongue River, and from Fort Buford to Tongue River. I answered "Yes, provided I could get a leave of absence." I did get a leave of absence from the Commissioners, and started west on the night of July 11, having in my pocket explicit written instructions from S. W. Dorsey, railway passes from Washington to Bismarck and return, and letters of introduction from Dorsey to Mr. Wright, president of Northern Pacific Railroad; ex-Governor Ramsey, of Minnesota; General Rosser, chief engineer Pacific Railroad; J. W. Raymond, banker at Bismarck; J. P. Kidder, the then Delegate from Dakota, and General Miles, commanding the Department. All the above parties except Raymond were urged in the communications of which I was the bearer and S. W. Dorsey the writer to send letters to the Department recommending an increase of service. All were delivered by me except the one to General Rosser, who was absent locating the line.

Before I left Washington Senator Dorsey placed to my credit in the German-American National Bank, about \$8,000, to be used in stocking the route from Bismarck to Tongue River. He also gave me three notes drawn either by J. W. Dorsey & Co. or by Miner, Peck & Co., payable to the order of S. W. Dorsey, and indorsed by him, for the sums of \$1,000, \$1,000, and \$2,500, respectively, with the understanding that the same bank would discount them whenever required. I was instructed to avoid negotiating them if possible, or if I found it necessary to use the funds to reserve the largest note till the last.

The petitions on pages 1206, 1210, and 1211 were copied substantially if not literally from forms in the handwriting of S. W. Dorsey; I either did the work or had it done. My instructions also told me what steps to take to secure the establishment of a new office north of the line, by which about 60 miles would be added to its length. Joseph Pennell testified to the facts.

While on the ground I carried out my instructions in reference to the procurement of letters and petitions for increases of service; started Joseph Pennell at the head of a construction party which was to survey the route, build stations, and dig wells; purchased grain and shipped it by water to Miles City, and paid the bills in drafts on the German-American Bank drawn through the house of J. W. Raymond.

On the way out I met J. W. Dorsey at Saint Paul, Minn. In company with Joseph Pennell, he had just arrived from Saint Louis with a car-load of horses. Mr. Dorsey and I went on together to Bismarck. He there assisted in organizing the construction train, upon the departure of which we started in company by boat for Tongue River, where I remained one day only, having returned on the same boat. Mr. Dorsey was to return across the country to meet Pennell. He remained in charge of the route during the rest of the year 1878. He assuredly was not in Washington in November, 1878, when W. F. Kellogg, notary public, pretended to take his jurat to the oath for expedition on route No. 40104. I know also that the signature is not in his hand. I did not see him again in Washington until January, 1879, when he came in from the far West and resumed work as messenger for the Senate Committee on Post-Offices and Post Roads.

On returning I reached Washington August 8, 1878, John W. Anderson having performed my clerical work for S. W. Dorsey during my absence. I found John R. Miner in the city, and in the course of a few days turned over to him all papers relating to the mail service. Miner and I together negotiated two and perhaps three of the notes heretofore mentioned at the German-American Bank, Miner taking charge of the proceeds.

S. W. Dorsey returned from New Mexico to the city early in December, 1878. Meanwhile the German-American Bank had failed, and the receiver, Mr. B. F. Keyser, had charged to him the notes negotiated by Miner and myself. Instead of finding a balance to his credit, he was confronted with an account overdrawn. The controversy growing out of these bank transactions began the rupture between him and his associates.

On my return in August I found Miner in great trouble about the service. He was then negotiating with Harvey M. Vaile to join him. Before consummating the ar-

rangement the latter went to Missouri. A few days later Miner in high glee told me he was all right, as Vaile would take charge of the service. About this time Miner also explained why Boone was forced out of the company. He gave me to understand that Brady did not like him, and would grant no favors while he remained in. He likewise said that the relations between Vaile and Brady were very close.

One or two days after the expiration of my month's leave of absence I returned to my desk in the District building, having received only actual expenses for my Western trip.

For three and a half months beginning, October 1, 1878, Miner and I occupied the same house, No. 214 C street NE. In December, at his request, in a petition asking for increase of trips on route No. 40104, I interpolated the words "on a schedule of 60 hours instead of 84 hours." During the fall I transferred the small balance of funds intrusted to me by S. W. Dorsey for stocking the Tongue River route, from the German-American to the Bank of Washington, and consequently withdrew it in checks, payable to Miner and Vaile. Otherwise than as described above I had nothing further to do with the mail service till December, 1878; I then came to a verbal understanding with Vaile and Miner that I was to be employed at a "good" salary, the amount not being stated. At one of the frequent conversations held during the month between Vaile, Miner, and myself at the National Hotel, Vaile remarked, that with proper management the annual compensation ought to be increased to \$600,000 or \$700,000 on their routes.

January 4, 1879, under a verbal agreement with Vaile and Miner, I started for Rawlins, Wyo., to put service on route No. 38113. For my protection I took a subcontract from Miner. While there I let the route to C. F. Perkins; I also wrote and circulated petitions asking for an increase of trips, and for a reduction of the schedule from 108 to 84 hours. Letters of similar purport I caused to be sent to the Department.

Under instructions from Vaile and Miner, I proceeded from Rawlins to Ojo Caliente, N. Mex., to make permanent arrangements for route No. 38145, whereon Anthony Joseph was then doing the work at no fixed rate of compensation. The subcontract made with Joseph is a matter of record. I here prepared petitions to be circulated by Joseph asking for additional trips, and for a shorter schedule. From Ojo Caliente I hurried back to Washington, reaching here about the time that my leave of absence for thirty days from the District government expired.

February 6, 1879, I withdrew my subcontract on route No. 38113 to make place for that of C. F. Perkins.

February 8, I entered into a written contract with Vaile, Miner & Co., whereby I was to receive \$2,000 per annum from route No. 38113, provided the trips upon it were increased to three per week, and expedition to the amount of 150 per cent., or thereabouts, was ordered; and I further agreed to devote my entire time to the interests of the company at an annual salary of \$1,000, should they require my services.

(Original paper with Inspector Woodward.)

It was understood that I was to make my headquarters at Rawlins, Cheyenne, or Denver. A letter-head was gotten up by Miner, naming me as one of the superintendents. (Copy with Woodward.) Meanwhile I continued with the District government, waiting for the expected increases on route No. 38113.

I now go back in my narrative to trace the personal and business relations between S. W. Dorsey, Vaile, and Miner.

Miner held powers of attorney from John M. Peck and J. W. Dorsey. In August, 1878, he made his first arrangement with Vaile, in the absence of the Senator, and without his knowledge, the service being about to fail. Vaile had both capital and experience. He furnished the needed money, taking subcontracts on all the routes of the above parties, except where the papers of the bona fide subcontractors had already been filed, and in the latter case drafts on the Sixth Auditor for the margins of profit. These subcontracts were mostly deposited for filing September 30, 1878, with the double object of obtaining security for advances and of cutting out the drafts given by S. W. Dorsey to the German-American Bank. The drafts held by the bank as collateral were originally signed in blank by Miner, Peck, and J. W. Dorsey, on their respective service, and delivered in bulk to the Senator. About July 1, at his dictation, I filled in the amounts to become due for the quarter ending September 30, 1878. By the trick of Vaile the bank was forced out of its collateral and made to rely on the notes. Acting on his powers of attorney Miner had agreed to give Vaile an interest amounting to 40 per cent. of the business.

On his return, in December, 1878, the Senator was angry for several reasons:

1st. The notes heretofore mentioned had been negotiated and charged to him at the German-American Bank, while his account had not been credited with the pay for service during the quarter ended September 30, as the subcontracts filed by Vaile had killed the collaterals and diverted the money into other channels.

2d. Because Miner had guaranteed so large a proportionate interest to Vaile.

Early in December the Senator wrote both to Brady and McGrew, denying the authority of Miner to act for his brother and brother-in-law, and directing them to

disregard the drafts and subcontracts given to Vaile. During the winter the relations between the Senator and Vaile continued hostile, Miner, when necessary, acting as a go-between. He would not allow his brother, J. W. Dorsey, to sign any papers on the service standing in his name.

Meanwhile Vaile and Miner learning from Brady that he was ready to increase and expedite the service on route No. 38113, required an oath respecting men and animals, to measure the cost of expedition. As J. W. Dorsey was the contractor we decided to put in an affidavit from the subcontractor. We questioned at first whether Brady would accept it, but Vaile saw him, and between them the matter was satisfactorily arranged. Accordingly, March 7, 1879, I wrote to C. F. Perkins, inclosing a blank form of oath, which I requested him to sign and swear to as sent. Perkins complied. On the return of the paper I filled in the words describing the number of men and animals required, both on the original and on the proposed schedules. S. W. Dorsey filed it in the Department. It was not used, however, as a division of interests took place a few days later, before action had been taken by Brady.

On March 4, 1879, the Senatorial term of S. W. Dorsey expired, and it was no longer necessary for him to conceal his interest in the mail business. He at once began to negotiate with Vaile and Miner with a view to a division of the service, and the percentage to fall to each. Neither J. W. Dorsey nor Peck was in the city, or had any voice whatever, direct or indirect, in the settlement. About a month elapsed before a final agreement was reached. At length, on April 6, S. W. Dorsey sent his carriage to my house, No. 114 F street northeast, with a request that I come to him immediately. Previously on the same day he had sent a similar message by a boy, but I was too sick to walk.

On reaching his residence I was informed by Mr. Dorsey that the difference between him, Vaile, and Miner had been amicably adjusted and the service divided. He showed me a list of thirty-two routes which had fallen to him, and proposed that I take charge of the business as his clerk and agent. I explained my bargain with Vaile, Miner & Co., viz, that I was to receive a salary of \$1,000 and \$2,000 per annum out of the White River route (No. 38113). He replied, "Why, damn it, I have the White River route." I then inquired whether they had made any reservations or conditions respecting it in my behalf. He answered "No," and went on to say that I "could expect nothing from these damn scoundrels." He proceeded to say that he would give me \$3,000 a year "straight" to take charge of the business. I accepted the proposition on the spot. My pay under the District government also continued till June 1. Vaile and Miner, when afterwards interrogated, contradicted the statement of Dorsey regarding their failure to reserve the \$2,000.

Within two or three days from the date of my engagement Mr. Dorsey personally prepared new forms of subcontracts, in which no provision was made for paying the men who furnished the stock and did the work any extra allowance for expedition. They were required to transport the mails "upon such schedule time, and for such additional trips, as the Post-Office Department may from time to time direct," &c. He aimed to exclude from the minds of such parties all knowledge of the facts and profits of expedition.

April 18, 1879, I left Washington for Colorado under instructions from Mr. Dorsey to make new subcontracts on the new forms wherever practicable, and to get up petitions and letters asking for increase and expedition on all his service in that State. I was instructed to tell the subcontractors by way of inducement for changing the form of agreement, that the old firm had dissolved; that the service had passed into the hands of an assignee; that the pay for one, two, three, six, and seven trips per week would be definitely expressed in figures, thus preventing any doubt respecting the rate of compensation when changes in the service should be ordered; and that ex-Senator Dorsey would guarantee all payments as they became due, a clause having been printed on the reverse side for the purpose. In return they were required to refrain from putting the subcontracts on file.

I took letters of introduction from Mr. Dorsey to State officials, newspaper writers, bankers and other prominent men, all urging the parties addressed to aid in securing increased mail service. Various papers fully prepared for signatures were written in Washington before I started, *e. g.*, No. 89, E., signed by Governor Pitkin, Secretary of State Meldrum et al., written by John A. Sibbald; 24 I, petition written by S. W. Dorsey; 25 I, petition written by W. F. Kellogg; 26 I, petition written by J. A. Sibbald. They were handed to me by Dorsey, having been prepared under his directions. He likewise furnished me with full and explicit written instructions. While on the ground I wrote the letter, 3 I, signed by Governor Pitkin; 4 I, signed by Judges Thatcher and Stone; and petitions 23 I and 27 I, besides many others, some being on routes which were not subsequently manipulated. I succeeded in substituting several of the new subcontracts in the place of the old, not one of the parties discovering the real point aimed at in the change. I returned to Washington May 2 or 3, Mr. Dorsey having attended to the business during my absence. (See correspondence by mail and

telegraph with the Wilcoxes in Oregon.) During the time he prepared or caused to be prepared the following papers:

Oath on route No. 38145 (17 E), body written by Kellogg, signed by J. W. Dorsey, acknowledged before Kellogg, with the following numerals and words in the writing of S. W. Dorsey: "38145," "three," "five," "fifteen," "fifty," "three," "twelve," and "forty-two." The letter of transmittal (also 17 E) was written throughout, including signature, by J. W. Dorsey.

Petition for daily service on same route (33 E) was written by S. W. Dorsey.

Petitions for daily service on same route (92 and 93 E) were written by S. W. Dorsey; also the pencil note on 92 E.

Oath on route No. 38140 (15 K) written by and acknowledged before Kellogg, signed by J. W. Dorsey, subcontractor, has the word "subcontractor" in the writing of S. W. Dorsey. The letter transmitting the same (14 K) was written by S. W. Dorsey, inclusive of the signature.

Oath on route 38113 (13 L) written by and acknowledged before W. F. Kellogg, signed by J. W. Dorsey, contains the following words and numerals in the hand of S. W. Dorsey, viz, "38113," "three trips," "four," "twelve," "45," "three," "11," "32." The letter of transmittal (12 L) was wholly written by S. W. Dorsey.

Petition asking for daily service and fast schedule on route No. 40113 (5 S) was written by S. W. Dorsey.

On route No. 38113 the proposed schedule was altered from 84 to 45 hours because Brady had come to insist upon at least four miles an hour.

On resuming charge of the correspondence early in May, 1879, I found a number of affidavits subscribed and sworn to by John W. Dorsey with spaces for the number of men and animals left blank. Miner had previously turned over to S. W. Dorsey a large batch of affidavits similarly prepared, and signed by John M. Peck, January 22, 1879. Free use was made of both classes afterwards. We put in some that were never acted upon. In order that we might not run short, under the orders of S. W. Dorsey, I prepared additional affidavits after the same model which were sent both to Peck and J. W. Dorsey, by whom they were sworn to in blank. We used them from time to time, filling in the number of the route, and the estimates for men and stock. A package, containing perhaps half a dozen from each, was stolen from my office in September, 1882, while I was in confinement.

May 6, 1879, I met Vaile and Miner together in the Post-Office Department building. After a pleasant greeting, I remarked, "You and Dorsey having settled your business; how is mine to be settled?" Vaile answered, "What do you say?" After a moment's thought, I replied, "Give me a suit of clothes and I will call it square." To which both agreed with seeming cheerfulness. Calling to mind the opinions expressed about these men by Dorsey, I went directly to the store of Katzenstein, the tailor, and ordered the suit, but with instructions before cutting the goods to present an order for \$35, which I gave him, to Mr. Vaile at the National Hotel. Later in the day Mr. Katzenstein informed me that Mr. Vaile declined to honor the order. The same evening I went to the hotel to see Mr. Vaile, and, not finding him in, left a note calling attention to my services and complaining of his treatment. On the 7th he sent me a sarcastic reply, now in the hands of Inspector Woodward. Deeply enraged, I brought suit in the circuit court to recover pay for my work.

May 29, 1879, Vaile addressed a minatory letter on the subject to S. W. Dorsey. It says: "If the action goes on it will expose to an extent our private matters in which you are interested. It will draw forth who are the real parties of Vaile, Miner & Co., and it cannot be helped," &c. This letter, now in the hands of Inspector Woodward, Mr. Dorsey turned over to me.

The complaint in my suit was filed May 29, 1879. In their answer, sworn to the 24th and the 27th of June, they denied the indebtedness but made the following admission, "True, it is the defendants Vaile and Miner, with one Stephen W. Dorsey, at one time employed him for a short time to aid in certain mail routes," &c. As Vaile and Dorsey separated from April 1, this could only refer to services rendered while the latter was in the United States Senate.

Miner subsequently testified directly to the contrary before the Blackburn committee. The case was set for trial December 27, 1880. On that day in the courtroom they proposed to pay me \$200 as a compromise, which I accepted. Mr. Dorsey complimented me upon the success of my Western trip, in fact, was so well pleased that he desired me to visit the Pacific slope, which I declined to do, and hence he substituted his brother in my place, and he left for California in May, 1879. He did this reluctantly, distrusting the ability of John W. When I proposed his name for the business, Stephen asked me, "Do you suppose John can attend to it?" I answered, "I don't see why he cannot, if he has full written instructions." Stephen replied, "You know John is a man of no judgment at all."

John W., while away, got up letters and petitions for increases on all the California service of his brother. On route No. 46247, Redding to Alturas, he obtained from Major and Culverhouse a subcontract on the new form, but so blindly expressed that

the Department refused to receive it; I was compelled to obtain a second one by mail. Returning, he made a trip into Southern Utah, where he procured the customary letters and petitions for increases on route No. 41119, and a subcontract on the new form from Nephi Johnson. The blank petitions, some in my handwriting, had already been sent to Johnson; but as he procrastinated, John W. was sent down expressly to hurry matters up. The letter of April 12, 1879 (29 C), was wholly prepared by S. W. Dorsey, and copied and signed by me. All the petitions asked for an expedition to forty-eight hours, but as Brady insisted on 4 miles an hour (as in the case of route No. 38113) the affidavit of Peck, sworn to January 22, was filled in for a schedule of thirty-three hours. Stephen W. was so provoked at the manner in which John W. managed matters that he ordered him home angrily and peremptorily. It should be added that the affidavit used on route No. 41119 was written by Miner, signed by Peck, and filled in by Rerdell.

The figure "7" and word "seven" in petitions marked 6 C and 7 C (pages 602-3) were interpolated by me.

See the letter of S. W. Dorsey to Nephi Johnson, dated May 5, 1879, and marked 34 C. The body of it is in the hand of W. F. Kellogg, the signature and pencil note in that of S. W. Dorsey. He alleges as ostensible reasons for offering the new form of subcontract that the firm had dissolved, and that in the first agreement the name of Peck had been used without authority "by this man" (Miner).

From the expiration of his Senatorial term till late in June or early in July, 1879, Stephen W. Dorsey remained in Washington, exercising personal supervision over the mail business, with the exception of about ten days running from May 20th to the 30th or 31st, when he made a flying trip to New Mexico, having been called thither by the sickness of Peck. Peck, or rather his wife, in point of fact, was superintendent of the ranch at Chico Springs.

Early in May, 1879, S. W. Dorsey instructed me to open a journal and ledger, giving me a pencil memorandum in his own writing, of the different accounts to be kept. It was on United States Senate note paper, and the original is with Inspector Woodward. It embraces "S. W. D.," "expense," "cash," "profit and loss," "J. H. Mitchell," "J. W. D.," "M. C. R.," "Wm. Smith," [John Smith],* "Saml. Jones."

"Wm. Smith" is charged with 18,000 and Saml. Jones, substituted for ["John Smith"]* erased, with 600.

At the time I inferred that these amounts had been already paid and to two post-office officials. I drew my conclusion from the fact that I had found in the writing of Dorsey a tabular statement of his service, giving the number of the routes, the present pay, the expedition expressed in percentages, the anticipated pay, and the "amounts to B—, 33½ per cent." All doubts on the subject were removed shortly afterwards when Dorsey asked me if I had entered a charge of \$5,000 or \$6,500 against Brady. I answered "No, I have opened no account with Brady." He added, "Well, against William Smith, then?" I proceeded to charge to William Smith the amount indicated by Mr. Dorsey, forgetting now which of the above sums it was, as both appeared on the books, as well as a third charge of \$7,000, making a total of \$36,500. At this interview he further explained that Saml. Jones stood for William H. Turner, a clerk in the contract office.

I continued to keep the books till about the 1st of August, 1879. I then attempted to balance them but failed, being confused by several items, *e. g.*, ex-Senator J. H. Mitchell, of Oregon, was paid for "legal" services \$2,500 in cash, and \$2,500 in a note of hand. Besides the orders for increases and expeditions, following each rapidly, added to the complication.

About this time S. W. Dorsey instructed me to employ as book-keeper James W. Donnelly, a clerk in the Land Office division of the Interior Department, at a salary of \$25 per month. Mr. Donnelly did this work after office hours, till into the spring of 1880. He had been book-keeper in the office of the United States marshal at Fort Smith, Ark., under both William A. Britton and Logan H. Roots, and was known to be an expert. He is now chief of the accounting division of the Land Office, and has always been a warm friend of Dorsey. It should be added that he knew nothing about "the true inwardness" of the mail business, as he merely made entries from memoranda furnished by me.

About March 1, 1880, I employed Mr. and Mrs. Charles E. Gibbs, of Washington, to make exact duplicates of the journal and ledger, for the use of Dorsey in New York City. I have read their statement and find they are mistaken in regard to finding the names of Brady and Turner, and in calling the original a "cash" book. Otherwise it is correct.

After the copies had been sent I received a letter from T. W. Torrey—the New York bookkeeper of Dorsey—inclosing a trial balance-sheet, which showed a variance of \$24.75. Upon examination I found he had called an item of \$25, twenty-five cents. With this correction the transcript balanced.

* In pencil and erased in original.

During the Congressional investigation of 1880, into the star service, I was subpoenaed to appear before the committee with all the books and papers of S. W. Dorsey, relating to the mail service. I telegraphed to Dorsey, who was then absent from the city, but could get no reply. Acting under instructions from James W. Bosler, who had become a partner of Dorsey, I directed James W. Donnelly to make out a new set of books leaving out the accounts with Wm. Smith and Saml. Jones, and possibly that with J. H. Mitchell and sundry items in the expense account. These new books were to be submitted to the Blackburn committee in lieu of the originals. I marked in pencil the items to be omitted. I happened to be under medical treatment when the subpoena was served, and though able to appear at once, to gain time for the preparation of the books, kept away from the committee on a certificate of disability from my physician. I testified June 2, but neither set of accounts was produced, it being near the close of the investigation. I think I was the last witness. Prior to this time, on the general balance-sheets, all accounts which showed no consideration had been closed by being charged to profit and loss. In this way the accounts with Smith & Jones were closed. Shortly afterwards I took both sets of books to New York to aid in a settlement between Dorsey and Bosler, and they were permanently left in the office of the former in the Boreel building.

I go back now to explain the connection of James W. Bosler with the business. In May, 1879, I learned from the letter-books that Dorsey had made a proposition to Bosler. The letter bears date May 13, 1879, was written by S. W. Dorsey, and an impression was taken by me in the copy-book, page 995. It showed the state of the service at the time; the amounts already paid to "T. J. B." (Thomas J. Brady); also the amounts advanced by S. W. D. (Stephen W. Dorsey); the sum, \$20,000, borrowed from "P. B. P."; and an annual net profit of \$54,000. It further stated that he had assurances that in a short time the service would be so increased as to yield a yearly profit of \$100,000, out of which additional payments amounting to either \$10,000 or \$20,000, I forget which, were to be made to "T. J. B." When Dorsey left, about the 20th, to visit Peck in New Mexico, he directed me, in case Bosler came, to show him the books and explain everything. Bosler did come, but only asked for a statement of the profits, remarking that he didn't know or care anything about the books.

In (contract may have been written in May, but it was not consummated till June) June, 1879, Dorsey and Bosler entered into a written contract by the terms of which Bosler was to pay one-third of the existing indebtedness, to advance the money needed for future expenses, and in return to have a one-third interest in the profits, to begin July 1, 1879. Dorsey having already, by drafts drawn on the Sixth Auditor, pledged all the pay for the quarter ended September 30, 1879, left nothing for his partner till the close of the quarter ended December 31, when the latter received all then due, as he continued to do till the close of the contract term. After December 31, 1879, Dorsey drew his share through and from Bosler, and from the same date all subcontractors were paid by Bosler.

In March, 1880, the partners in New York city made a supplementary or new agreement whereby Bosler was to receive one-half of the profits and relieve Dorsey from all further care. I was called to New York to assist in the settlement of March, 1880, and from the dictation of Dorsey wrote the agreement. On my arrival I called about 11 o'clock a. m., at his residence on Fifth avenue. The conversation had hardly begun when a stranger to me was shown in, and I was requested to retire to the back parlor. The interview in the front room lasted perhaps half an hour, when the gentleman left and I was called back. Dorsey resumed the conversation by asking if I knew that man. I answered, "No." He then said, "That is A. M. Gibson." "Why," replied I, "he is the man that has raised this row in Congress." "Yes," answered Dorsey, "that is so, but he is all right now, and a good friend of mine."

Later in the day, after a long, private conference between Dorsey and Bosler, at which I was occasionally called in to answer questions, Mr. Dorsey gave me a memorandum in his own writing, and directed me to credit him with certain shares of mining stock disbursed, as nearly as I can remember, as follows:

J. N. Tyner, 1,500 shares	\$2, 000
A. M. Gibson, 1,500 shares.....	2, 000
W. H. Turner, 1,200 shares	1, 500
X, 2,000 shares.....	2, 500
	8, 000

The above lots consisted of shares in two mining companies, one of which was "Carbonate Hill;" the other has escaped my memory.

He also required me to give him credit for house-rent for five months, July to November, inclusive, \$416.66, the partnership having occupied one room in it as an office. From December 1st it was taken by other parties, the office in the basement being reserved.

In May, 1879, Col. John W. Steele, of Oberlin, Ohio, was employed by Dorsey at an

annual salary of \$2,000, to go wherever the exigencies of the business might require. On route No. 38145 he made the subcontracts with P. J. Jaramillo and J. L. Sanderson & Co. He also effected the final compromise with Jaramillo. His connection with the partnership ceased in December, 1880.

While John W. Dorsey, in connection with Miner, may have had a small interest in the business prior to the division of the routes, I know that he held no interest after the dissolution of April, 1879. On two occasions he was employed to travel, once to California and once to Southwestern Colorado, at a salary of \$125 per month. His total compensation did not exceed \$400, and he drew no dividends. When drafts or warrants as pay on any of the service required his indorsement as the nominal contractor, I sent them to him. He signed them as a matter of form and returned them to me.

The connection of John M. Peck with the partnership was also merely formal. No share of the profits ever went to him after the management fell into my hands, and I have no reason to think that he ever received one cent.

For myself I wish to say that, excepting an annual salary of \$3,000, I never had any pecuniary interest in any of the routes embraced in the indictment. Where I appeared as subcontractor it was to enable my principals to hypothecate drafts for the full amount of the pay by attaching my receipts thereto. Wherever the record shows that I received either pay or remission, I accounted for the last cent to Dorsey and Bosler, holding no beneficial interest therein.

After March, 1880, I drew my pay from J. W. Bosler and reported to him, he exercising entire supervision. At that time Dorsey was engrossed in mining speculations, and later on in the Presidential contest.

In August, 1880, Dorsey passed through Washington, en route to Indiana. He, Bosler, and Brady had a meeting at Chamberlin's. Immediately afterwards Bosler directed me to make out a list of all fines and deductions, and where I had no proof to explain the failures to write to the different subcontractors to furnish it. He added, "Brady has agreed to make the remissions. We have got to pay like the devil for it, but half a loaf is better than no loaf."

In addition to \$750, which went to A. S. Powers, of Oregon, nearly \$4,000 were remitted. Shortly afterwards, on Bosler's books, I saw an item of \$2,000 charged to expense. I knew it could refer to no other transaction. It will be seen that the remission cost about 50 per cent. of the claims.

A vigorous effort was made to secure remissions aggregating over \$20,000 on route No. 40104, being deductions imposed for the gross failures of Isaac Jennings. I always understood that Brady was ready to sign the orders, but S. M. Lake, chief of the inspection division, resisted, and Brady hesitated to act over the head of his subordinate.

I now step out of the current of my narrative to mention a few illustrative facts.

On route No. 38135, Pueblo to Greenhorn, I interpolated the words "on quicker time" and "a faster schedule," after the receipt of the papers in Washington, supposing that the petitioners had neglected to ask for expedition. It was not till the trial that I discovered that some of the petitions originally asked for expedition.

On route No. 41119 Stephen W. Dorsey instructed me to fill up one of the Peck oaths, made the previous January, so as to yield an increase of about 150 per cent. for expedition. I was then a novice, and made the number of men and animals required on the existing schedule absurdly small, but observed the proportion suggested by my employer.

On route No. 38134 two affidavits, both sworn to before Rufus Wainright, April 21, 1879, were filed, one May 6 and the other May 8; both were signed J. W. Dorsey, subcontractor. In both affidavits I filled in the number of men and animals. Turner, the contract clerk, objected to the first on the ground that it claimed too large an equipment for so short a line. To meet his views I substituted the second, the percentage of increase, viz, 200, being the same in each. The word "subcontractor" was written under the name of J. W. Dorsey, though he had nothing whatever to do with the route. The same description, equally without authority, was appended to his affidavit used on route No. 38140. In the latter instance the addition was made by S. W. Dorsey; in the former, I think, by myself.

Early in 1881 Mr. Bosler asked me if I had petitions for daily service on seven specified routes. I replied on all except one, viz, No. 38113. He then directed me to lose no time in procuring them on that line. I wrote to Eugene Taylor, urging him to have petitions for daily service in Washington by March 1. One came about March 2. Upon this Col. J. W. Steele obtained the favorable indorsement of General W. T. Sherman. It was filed in the Department the 5th, and favorably acted upon the 8th. The scheme contemplated the following increases: Route No. 38113, from 3 to 7 trips per week; route No. 38135, from 3 to 7 trips per week; route No. 38140, from 3 to 7 trips per week; route No. 38145, from 3 to 7 trips per week; route No. 40113, from 3 to 7 trips per week; route No. 44140, from 3 to 7 trips per week; route No. 46247, from 6 to 7 trips per week.

The trips on Nos. 38113, 38145, and 40113 were increased from 3 to 7 per week, and one trip was added on No. 46247. No action was taken in regard to the others.

I had previously furnished Mr. Bosler a tabulated statement showing what the pay on the seven routes would be when the trips were increased to daily. At Willard's Hotel, one evening soon after the orders were made, Mr. Bosler, taking from his pocket this tabulated statement, said to me, "Supposing I had to pay \$10,000 for all these increases, what per cent. would I have to pay for 38113, 38145, and 40113?" I answered, "How about the additional trip on 46247?" He replied, "That is all right, it has been settled for." I made the calculations and told him that the increases amount to 57 per cent. of the gross amount.

When the investigation began under the Garfield administration I saw from the public prints that the authorities were getting down to the substantial facts. After reflection I decided for myself to tell the truth and take the consequences, though well aware that my course would lead to the severance of long-continued business and social relations. With this end in view I sought the interview with Postmaster-General James, and the statements made by me at the Arlington Hotel to Messrs. James, Clayton, and Woodward were true. The statements subsequently made by me to Attorney-General MacVeagh were also true, though in his testimony he quoted me incorrectly on some immaterial points.

After thus committing myself I determined acting under the countenance of the Attorney-General to save ex-Senator Dorsey, if possible, as well as to furnish written proof to sustain all I had told. I accordingly went to New York City, starting at 9 o'clock p. m., June 12, 1881. I first went to the office of Dorsey and secured the journal which contained the original entries both in my writing and in that of Donnelly. I then called upon Dorsey at the Albemarle Hotel. He received me angrily, nay, furiously, having learned of my disclosures, as he alleged, from Mr. S. B. Elkins, as I believe, from A. M. Gibson. He remarked that no step was taken but what he was fully advised of it. Finding him in no frame of mind to discuss matters reasonably I soon rose to leave. He was still in his night-clothes, and, as I was about to close the door, remarked that he wished to see me again as soon as he had dressed. On reaching the street I grew more and more indignant at his treatment. Without returning to the Albemarle I started for Washington, reaching Jersey City about one hour before the departure of the afternoon train. Thence I telegraphed to Dorsey as follows:

"The affidavit story is a lie; but confidence between us is gone. I resign my position, and will turn everything over to any one you designate."

At Philadelphia two dispatches, both from Dorsey, were handed me. The first ran substantially, "Why did you leave without seeing me again? Return by first train to New York."

The second: "Will you ruin my wife and children. Return to New York and all will be made right. I will not accept your resignation."

I answered from Baltimore:

"I can do no good by returning. Will do nothing to injure you, but send some one to take my place."

The next morning I received by mail a long, pathetic, and fervent appeal from Dorsey, imploring me to do nothing to disgrace him and his family. This letter I showed at once to my brother, J. H. Rerdell. The same morning United States Senator ———, sent me a message to come at once to the National Hotel. I complied. He proceeded to say that he had left Dorsey the night before nearly crazy; that he had already been terribly punished by the scandal; that since March 4th he had fallen from a dizzy height, and that I had nothing but ruin to gain by making disclosures. By way of warning he pointed to the fate of the witnesses in the whisky cases. The interview lasted a couple of hours and left me unshaken in my purpose.

That night I telegraphed to Dorsey that I was doing all I could to save him. He replied by wire that he knew of nothing he wanted to be saved from. The next day I met James Torrans, United States marshal, for Eastern Arkansas. I said to him that this foolishness had gone far enough, that the time had come for Dorsey to make a clean breast. In this view Torrans acquiesced.

On the Sunday morning next after the above interviews, Dorsey arrived in Washington, and sent for me to come to his house, 1121 I street. He met me at the door—an unusual proceeding—shook hands cordially, and led me to the office. He made the most eloquent and effective appeals to me, dwelling particularly upon his wife and children. I replied that I would do anything in the world for him except perjure myself. He replied, "What in hell does an oath amount to when the fate of a friend is at stake. Under such circumstances I would not hesitate."

Meanwhile Mr. J. W. Bosler came in and entered into the conversation. The talk continued from about 10 o'clock a. m. till 3 p. m.

Bosler and I then left, walking down to Willard's Hotel together. Thence I went home to dinner, having promised to return immediately afterwards, which I did.

On reaching his hotel room we resumed the conversation. I then repeated to him

the admissions I had made to Mr. MacVeagh. He argued that this did no essential harm, as in an Indian investigation he was once confronted by a witness to whom the had made compromising admissions, when he escaped by acknowledging the admissions, and by claiming that he was not under oath at the time, and that they were made for the expre purpose of entrapping his accuser. He added that I was now in exactly the same fix, and if I would make ad affidavit on that line Messrs. James and MacVeagh would be driven out of the Cabinet inside of ten days.

The next day I began the preparation of the affidavit, Dorsey and Bosler being present and offering frequent suggestions. The last two or three pages of manuscript were written by Dorsey and copied by me. When the paper was completed, although I was exhausted and hungry, Bosler insisted that it should be sworn to before I dined. We drove to Middleton's bank, where the notary affixed his jurat. A copy was then made by Miss Nettie White, when the original was sent to President Garfield, or rather was taken by Messrs. Ingersoll and Dorsey in person to the White House. I accompanied them and remained in the ante-room expecting to be called in. While seated there I saw Messrs. James, Cook, and Woodward enter the house. About 10 o'clock Dorsey and I left together, Ingersoll remaining. This occurred the week the President was shot, the presentation of the paper having been delayed by his absence at Long Branch.

At my first interview with Messrs. James and Woodward, I warned them not to trust either William A. Cook or A. M. Gibson, as I fully believed those men would betray the Government. I distrusted Gibson, because I had seen him at the house of Dorsey during the Congressional investigation, and because he was charged with a donation of stock on Dorsey's books. I distrusted Cook, because he was holding secret communication with Dorsey after accepting employment from the Government.

One morning I was sent to Cook with a note from Dorsey. I met him on the office stairs, when he motioned me back, saying, "You should not be seen here for reasons which I cannot explain now, but which will soon become apparent."

The same night I took a second note to Cook, going to his house and thence to his office, where I found him. On reading it he said, "All right. Tell him I will be at his house at 11 o'clock."

He came; I met him at the door. He asked if Dorsey was alone. I informed him that he was with callers, upstairs. He then said "I will step in here, as I do not wish to be seen." Thereupon I conducted him into a dark unfurnished parlor, taking in a chair from another room. As soon as the visitors went away Dorsey came down and took a seat with Cook in the unlighted room. They were still in conference when I left, about midnight.

The following day the employment of Cook by the Government was publicly announced. When I referred to the fact Dorsey said, with a smile, "That is all right."

While I was incarcerated in September, 1882, my office was entered and a large number of papers taken therefrom. Others were torn into shreds and scattered upon the floor. Among the papers stolen were the original drafts, partly in writing of Dorsey, of my affidavit addressed to President Garfield; a copy of the letter of May 13, 1879, written by Dorsey to Bosler; complete copies of the Wilcox correspondence; two balance-sheets prepared by J. W. Donnelly, one showing the charges to "Smith" and "Jones," and the other the same items carried to profit and loss; a package of blank affidavits for expeditions signed by J. W. Dorsey and John M. Peck; the memorandum showing the number of shares of mining stock donated to Tyner, Turner, and Gibson, and many others. Stephen W. Dorsey had a key to my office.

My salary, at \$3,000 per annum, was continued without interruption till August 1, 1882.

On the routes where I was the nominal subcontractor I had been in the habit of filing receipts for the full amount of pay with the drafts of Mr. Bosler. Last fall drafts on blanks signed by Miner, Peck, and J. W. Dorsey were made out by me for the rest of the contract term and delivered to Mr. Bosler. By some oversight Bosler filed those for the quarter ended December 31, 1881, without attaching my receipt as subcontractor. My attention was called to the omission in January, 1882, by Deputy Auditor Crowell. Believing that indictments and prosecutions which would involve me in expense were coming, I determined not to file my receipt on route No. 41119, but to draw the pay as subcontractor. I did so, paying Nephi Johnson \$2,500 and reserving for myself \$2,327.83. This constituted a part of the \$3,000 which I lost in an option on the Rawley mine, through overconfidence in Col. Robert G. Ingersoll.

The foregoing statement, believed to be absolutely correct, is made up largely from memory, fortified in part by the record and in part by the papers saved from the wreck.

MONTFORT C. RERDELL.

Subscribed and sworn to before me November 22, 1882.

P. H. WOODWARD,
Post-Office Inspector

Supplementary statement from Montfort C. Rerdell.

I, Rerdell, left for the West the night of July 11, 1878, and not July 6, as previously stated.

July 11, 1878, Stephen W. Dorsey placed to the credit of J. W. Dorsey & Co., in the German-American National Bank, \$3,000, being the net proceeds of two notes that day discounted. The notes were drawn by J. W. Dorsey & Co., endorsed by S. W. Dorsey and by J. W. Dorsey & Co., I writing the signature of the latter under the direction of S. W. Dorsey. The money was loaned on the exclusive credit of S. W. Dorsey.

The same day at his own house the Senator gave me \$1,500 in money. Of this I placed to the credit of J. W. Dorsey & Co. in the German-American Bank \$500, and took the rest with me in currency. In addition to the above \$4,500, Stephen W. Dorsey gave two notes for \$1,000 and \$2,500, respectively, drawn by J. W. Dorsey & Co., and indorsed by himself, either to J. R. Miner or to me, I do not clearly remember which. Like the previous advances the proceeds were also to be used, if necessary, in putting the service on the route from Bismarck to Tongue River.

The note for \$1,000 was discounted August 8, 1878, the day of my return; and the one for \$2,500 October 12, 1878. The avails of the latter had been anticipated in checks already sent to J. W. Raymond, a banker at Bismarck, Dak.

These several sums aggregate in round numbers \$8,000. The entire sums was checked out by me over the firm signature of J. W. Dorsey & Co. The above notes are the ones referred to by Mr. B. U. Keyser, receiver, in his testimony at the first star-route trial.

S. W. Dorsey gave me the pencil memorandum showing what accounts to open and what charges to make immediately after my return from the West, or early in May, 1879. A number of routes were heavily manipulated in 1878 and early in 1879. It would be mere guesswork on my part to attempt to apportion, either in respect to service or dates, the \$8,000 charged to William Smith, alias Thomas J. Brady.

Explanation of certain correspondence.

In April, 1878, I received the following from Senator Dorsey:

MOUNTAIN SPRING RANCH,
COLFAX COUNTY, NEW MEXICO,
April 3, 1878.

M. C. REDDELL, 1121 I street:

DEAR REDDELL: I wish you would get fullest information in regard to all the new post-office lettings and keep posted as to the schemes going on in the Department. There are certain routes we want advertised and others we do not. I shall be in Washington as soon as the 12th unless something unexpectedly happens.

Faithfully,

DORSEY.

I was then a clerk in the District government, knew nothing about the mail business, and hence was in no position to respond to the above demand. I was the private secretary of Senator Dorsey, and hence probably the call upon me.

September 27, 1878, J. W. Dorsey wrote me from Dakota:

"You have not written me anything about the prospect for the increase."

He refers to expected increases on the route from Bismarck to Tongue River.

I have a copy of a letter written by Senator Dorsey to his brother John, December 9, 1878 (page 5, letter book):

"* * * * Mr. Vaile has taken the whole business, and is to pay you for your whole interest \$10,000, in payments to be strung out * * *."

He advises John as soon as relieved by Vaile, in January, to come to New Mexico and go into the cattle business. He adds that Peck gets about the same from Mr. Vaile that he does. He advises him to come back to Washington as soon as relieved, so as to draw his salary at the Senate, as there must be several hundred dollars due from the Sergeant-at-Arms.

December 25, 1878, John W. Dorsey replied from Dakota. He said:

"Your favor of the 9th is received, and I am glad that Mr. V. has bought out, though I had no doubt but this route alone will pay him or some one else \$100,000 clear of all expense within the life of the contract * * *."

April 10, 1878, from the United States Senate Chamber, Senator Dorsey wrote the following:

"S. S. HUNTLEY, Esq.:

"DEAR SIR: Will you please send me annual pass for Col. James L. Hodges, and greatly oblige,

"Yours, truly,

"S. W. DORSEY."

The body is in the handwriting of J. R. Miner, but the signature is by S. W. Dorsey. Hodges wrote the petitions on routes 40104 and 40105. Both were made the basis of large increases.

After I was served with a *subpœna duces tecum* to appear before the Congressional investigating committee in 1880 I tore a number of leaves from my letter-press copy-book, as the contents were of a compromising character. Some of them I still have.

In the letter of December 28, 1870, to D. W. C. Wheeler, page 466, refers to a payment of \$200 to A. M. Soteldo, through George H. Giddings.

"Our friend," referred to on page 457, is J. E. Reeside. He demanded \$20,000 as the price of letting up on the contractors. The second clause in the list of reasons refers to A. M. Soteldo. Negotiations with Reeside were conducted by Boone. A large salary on the Pacific slope was offered him, which he declined.

Wheeler had been sent to Washington by S. W. Dorsey to look after his interests. He expected \$2,500 from the company for going upon its bonds as surety. He told me that he made the arrangement with Senator Dorsey himself, who guaranteed the payment. The Senator subsequently tried to throw the obligation upon Miner. When I spoke to Miner he said he had never seen Wheeler; that it was Dorsey's own arrangement, and declined to do anything about the matter. This claim is referred in the closing paragraph.

In the letter dated January 9, 1880, to D. W. C. Wheeler, pages 468-'69-'70, the clause on page 469 running, "Now, so far as the party whose letter I return to you is concerned, we do not fear him any more, and propose to let him go to the devil," means J. E. Reeside. We had come to the conclusion not to be blackmailed by J. E. Reeside.

Letter of May 22, 1880, to J. W. Bosler, pages 358-'60:

"General B. is very much alarmed, and he and I had a long conversation to-day, during which he made several valuable suggestions, which I shall follow." (Page 360.)

May 21, 1880, I was served with a *subpœna duces tecum*. The next day I called on General Brady. He asked in substance, "Have Dorsey's books been kept in such a way that they can safely be carried before the committee?" I replied "No. There are some accounts showing large cash payments which will require explanation."

He then asked if the books were large, or if there was so much in them that they could not be copied. I informed him that the contents were not voluminous and that they could be copied in a short time. He then suggested, being the first person to put the thought in my mind, that new books be made, omitting the objectionable accounts. I acted at once upon his advice. He added, "Dorsey is a damn fool for keeping books."

As before stated, the account of Wm. Smith, alias Thos. J. Brady, was opened with a charge of \$18,000. A few days afterwards I went to the bank of Middleton & Co., with S. W. Dorsey, who drew \$7,000 in cash, in several checks—three, as I now remember. We walked down F street together to the Post-Office Department. We separated at Brady's door, he telling me to wait for him in Turner's room, which I did. After the lapse of fifteen or twenty minutes Mr. Dorsey rejoined me, when we left the Department building.

Either that or the following day Senator Dorsey asked me if I had given him credit for the amount paid to Brady. "No," answered I, "There is no account with Brady." "Well, with Wm. Smith," he continued. "It is all the same. Damn it, I supposed you knew it."

On the books I credited S. W. Dorsey with \$7,000, and charged the same to Wm. Smith.

I remember going over the stubs and finding that the checks used for the purpose aggregated \$7,000 also.

MONTFORD C. RERDELL.

Subscribed and sworn to at Washington, D. C., January 17, 1883, before me.

P. H. WOODWARD,
Post-Office Inspector.

Rerdell made these two affidavits. They were submitted to me; the first one probably before the trial commenced and the second one during the progress of the trial. I examined them with very great care and found that they contained a great deal of very important information, some of which was corroborated by written papers. I held the affidavits for a long time, and held the question of permitting Rerdell to become a witness under advisement up to, I think, the very day before he was put upon the stand. We consulted in regard to it at various times—Colonel Bliss and Mr. Ker and I—but the determination to allow him to become a witness was not reached, I think, until the evening before he went upon the stand. Now, my reason for using him at

that time was this: As I have said, there was ample testimony in the first case to justify a conviction, and we had all of that evidence already in the second case; but on the second trial, instead of having an intelligent jury, we had the worst jury I ever saw summoned to the box. I have never in this jurisdiction or any other seen so bad a jury.

By Mr. FYAN:

Q. Bad in what way?—A. Bad in intelligence, bad in every respect. I will tell you, gentlemen of the committee, why it was so bad. The first trial of this case, of course, attracted the attention of the people of Washington and of the entire country. Diligent and enterprising reporters were on hand during the whole of the first trial to report everything that was said by counsel, court, or witnesses. The journals throughout the country contained a very full report of the proceedings. The papers of this District contained quite a full record of everything that had transpired on that trial. According to the law of this District and the common law, a person is not competent to serve upon a jury who has formed and expressed an opinion as to the guilt or innocence of the person that he is called to try. There have been some slight relaxations of the rule as to the strength of the opinion and as to whether it can be removed by testimony, and so on, but it still stands as a rule of law, that if the man has formed an opinion as to the guilt or innocence of the accused, he is not a competent juror. Now, almost every intelligent man in the District of Columbia *had* formed and expressed an opinion in this case, and when those summoned as jurors were asked in the examination upon the *voir dire* as to the character of that opinion, its firmness, and the difficulty of removing it, they generally testified that their opinion was so decided that they did not think any testimony could change it; and those who, in the first instance, indicated that their opinion might possibly be changed, came to think that it would be more difficult to change it as they contemplated the prospect of sitting in that box for four or five months. [Laughter.]

So that, in point of fact, the operation of the rule excluded the intelligence of the District of Columbia from the jury-box, and the few intelligent men who were on the jury—that could be called intelligent men—were accepted, notwithstanding their opinions, and without regard to the rule. I think there were some men on that jury that could neither read nor write. The Government had three peremptory challenges, and only three, and I was obliged to exhaust one of those challenges, as the record will show you, upon a man of this description. He was a colored man; I think he came from the county, and had been laboring on a farm. He gave his name and occupation, and when asked whether he had formed an opinion as to the guilt or innocence of these defendants, he said he had not. When I asked if he had ever heard of the star-route case, he said he never had heard of such a case in his life. He was so entirely innocent of any knowledge of this transaction that I was naturally led to inquire whether he could read or write. No; he could not read a word of print. I appealed to the court to say that he was an incompetent juror, because the case involved an inquiry into forgery. Some of the most material inquiries in the case were as to forgeries.

The court said that under the law he seemed to be probably the most competent juror that had been offered. [Laughter]. I endeavored to get the court by some means or other to pass him by. All that was unavailing, but I could not consent, as the representative of this Government in the trial of such a case to allow that juror to be sworn after

what he had disclosed, so I was obliged to exhaust one of my peremptory challenges in order to get rid of that ignorant man. Of course, the defendants challenged every intelligent and competent man within the limits of their challenges. They did not want intelligence; and with their challenges and under the operation of this rule of law, the defendants got all they wanted, including a verdict of not guilty. Now, that being the character of the jury, I considered that, although the evidence without Rerdell's would certainly have been amply sufficient before an intelligent jury, I needed something further before such a jury as that, and as Rerdell's testimony was particularly personal to individuals and developed facts in a way that would help to explain the obscure records even to the most unintelligent mind, I deemed it all-important to put him upon the stand, and I did put him upon the stand.

Q. That was after examining the affidavit that had been submitted to you?—A. After having had that affidavit under my examination for some months.

Q. Did Rerdell set forth in his affidavit and state in his testimony before the jury the relations that had existed between him and Mr. Dorsey in star-route matters?—A. He did, fully.

Q. Did that statement show that Mr. Dorsey was a party to these star-route frauds?—A. Certainly it did, sir.

Q. Was there any question raised by his testimony as to the propriety of calling as a witness for the Government Mr. James W. Bosler, of Pennsylvania?—A. There had been a great deal of talk about Mr. Bosler in both of these trials. Bosler was regarded as a friend of the defendants, and in the first trial we did not have sufficient faith in his integrity to believe that his appreciation of duty would override the obligations of that relation. We thought, moreover, that they would call him. In the second trial Mr. Bosler was summoned to appear as a witness, and I think a subpoena *duces tecum* was served upon him to produce his books and certain papers. I find a passage in Rerdell's affidavit as follows:

I go back now to explain the connection of James W. Bosler with the business. In May, 1879, I learned from the letter-books that Dorsey had made a proposition to Bosler. The letter bears date May 13, 1879; was written by S. W. Dorsey, and an impression was taken by me in the copy-book, page 995. It showed the state of the service at the time; the amounts already paid to "T. J. B." (Thomas J. Brady); also the amounts advanced by S. W. D. (Stephen W. Dorsey); the sum, \$20,000, borrowed from "P. B. P."; and an annual net profit of \$54,000. It further stated that he had assurances that in a short time the service would be so increased as to yield a yearly profit of \$100,000, out of which additional payments amounting to either \$10,000 or \$20,000, I forget which, were to be made to "T. J. B."

Q. Was there any effort made on your part to obtain from Bosler the letter as to which Rerdell testified that he had seen a copy of it in Dorsey's book?—A. I regarded that letter as a very important paper. I examined it with a great deal of care, as did the other counsel, and we consulted with regard to it; that is, we examined the letter-press copy, and we were resolved, if possible, to get the original letter. It was necessary, in order to introduce the letter-press copy, that we should show that there was an original, and that it had been in the possession of the party to whom it was addressed, and, of course, that it was lost. Mr. Bosler was put upon the stand and interrogated very closely by Mr. Bliss in regard to this subject. He swore positively that he had no such letter, that he never had received such a letter, and that no such letter existed so far as he knew. You will find his testimony on this subject on pages 2611 and 2612 of the record of the second trial.

Q. Was the press copy of that letter from the books of Mr. Dorsey submitted to you by Rerdell?—A. Yes, sir; we had the letter-press copy in full.

Q. And was it the opinion of the counsel for the Government before the introduction of Bosler as a witness that his testimony would establish the fact of the receipt of that letter by him?—A. I thought that it would; but I never had myself any conversation at all with Mr. Bosler. I never spoke to him in my life.

Q. You simply assumed that a letter appearing upon Mr. Dorsey's letter-book addressed to Bosler would be a copy of one actually sent, and that Bosler must have received the letter?—A. I did. I took it for granted that Bosler had received the letter.

By Mr. STEWART:

Q. And you assumed that he would tell the truth about it?—A. I hoped that he would.

By Mr. FYAN:

Q. It was absolutely necessary to prove the existence of the original letter before you could introduce secondary evidence, and therefore you had to put Bosler upon the stand?—A. Yes, sir.

By the CHAIRMAN:

Q. Did Rerdell testify that an original letter of the kind found in the letter-book had been sent to Bosler by him?—A. I think he did. My impression is that he did; and the object of examining Bosler was to prove the loss of the letter.

By Mr. FYAN:

Q. Did he swear he never received it?—A. He swore he never received any such letter. There were two letters that had been sent to Bosler which are mentioned in Rerdell's affidavit that I wanted to get in, and it turned out, I believe, that Bosler had never seen either of them; at least, *he* said so.

Q. Who wrote those letters?—A. S. W. Dorsey wrote the important letter to which the chairman has just now referred, in which there is an account given of the profits of the business and the amount to be paid to Brady; and Rerdell wrote the second letter, telling Bosler of the demand of the House committee of investigation that he should go before it with the books of the company and of an interview that he had had with Brady upon that subject.

Q. I understood you to say awhile ago that there *was* such a letter?—A. Mr. Dorsey swore there never was any such letter. Mr. Rerdell swore that there was. Rerdell had taken the letter-press copy.

By Mr. FYAN:

Q. You are speaking now of the second letter; in whose handwriting was the first one?—A. I remember very distinctly the image upon my mind of the signature of Dorsey to that letter; that is, what I supposed to be his signature.

Q. Did Bosler swear that he had never received either of the letters?—A. He swore positively that he had never received either of them.

Q. Then it was a matter of necessity for you to put Bosler upon the stand?—A. Yes, sir; he was put upon the stand for the declared purpose of proving the loss of the letter, and not for anything else.

By the CHAIRMAN:

Q. Was there any other evidence than this within his knowledge that was material, and which you desired to produce?—A. None that I know of. I am unable to say what he knew, because, as I tell you, I had no conversation with him at all.

Q. Was he served with a subpoena *duces tecum* to produce his books?—A. He was.

Q. Did he respond to that demand to produce his books?—A. In order that I may save you the trouble of asking various questions in the direction in which your examination is tending, I will say that I had nothing whatever to do with Bosler. Mr. Bosler came here, as I was informed by the Attorney-General, and also by Mr. Bliss with his books, and expressed a desire that I should not see his books.

Q. For what reason?—A. Because I was a Democrat and he was of a different political faith, and his books contained some political entries and some private matters which he did not desire submitted to the examination and criticism of one of the adverse political party; and the Attorney-General, speaking on the subject, indicated that that was Bosler's wish, and I think that Colonel Bliss may have indicated the same thing. I do not remember as to that; but it was then understood that Colonel Bliss should look at the books. I said at once, "I do not want to examine his private affairs; I do not want to see the books for any other purpose than to use whatever they may disclose that would be evidence in this trial, and I take it for granted that my associate will examine them just as well as I could."

Q. Where did Mr. Bosler live when at home?—A. At Carlisle, Pa.

Q. Then there were objections to your looking at his books for the reason that there were some political entries in them?—A. That I understood to be the objection, and the reason why he did not want to submit his books to my examination.

Q. You yielded that point?—A. Of course, sir, readily.

Q. But Colonel Bliss examined the books?—A. Colonel Bliss, I take for granted, did, and I believe he has so stated.

Q. How long was Bosler held here as a witness by the Government?—A. He was held here for several weeks; whether all the time in attendance upon the court I am unable to say, but he was in attendance from time to time.

Q. Did he make any request to be relieved from the subpoena?—A. He never made any such request of me, because, as I have told you, I had no conversation with him.

Q. Did he desire to be relieved from appearing before you because of the reasons given, or for any other reason?—A. I never had any communication with him.

Q. Did any other person have any communications with you in his behalf or for his benefit?—A. Well, there was a gentleman who spoke to me upon the subject.

Q. Did he desire to be relieved from appearing before the court in this trial on the ground of wishing not to disclose any of his business matters in court?—A. He desired to be released from the obligations of the subpoena which kept him in attendance here.

Q. Was that merely on account of the inconvenience, or for some other reason?—A. As I recollect, what was said was that he did not desire to have his private matters in his books made public. As to whatever related to this case there was no objection. Now, I am stating what was said, but I do not believe it is competent evidence, if you will pardon me.

Q. I asked you if he desired to be relieved from attendance in court?—

A. I do not know that Mr. Bosler sent any one to me or knew anything about it. I know nothing further than that this conversation did take place with a gentleman about Mr. Bosler.

Q. Were you advised by any one speaking for him that Mr. Bosler desired to be relieved from attendance before the court for any reason?—A. I have just answered that question by saying that he desired to be released from the obligations of a subpoena.

Q. Now, was that desire predicated upon the fact that his testimony would be such as to embarrass him because he did not desire to make public the contents of his books?—A. I did not understand that he had indicated that his testimony in reference to this case would embarrass him. I understood from the conversation to which I have referred that the only desire of the person that was talking to me was that Mr. Bosler's private affairs should not be disclosed, and that Mr. Bosler himself should be allowed to go about his business. And now, Mr. Chairman, let me say that I must ask you to excuse me from making any further statement upon this point.

By Mr. VAN ALSTYNE:

Q. Didn't it go a little further than that; was it not that his transactions with party money—political funds—rather than his private affairs, should not be disclosed?—A. That was the impression that I drew. When I said "private affairs" I meant private political affairs.

Mr. BLISS. Mr. Bosler told me that his books contained evidence of political contributions, and that he did not think that ought to be brought out in public.

The WITNESS. What I desired particularly was the Dorsey letter.

By the CHAIRMAN:

Q. You cared nothing about anything else?—A. I did not know of anything else. My associate, Mr. Bliss, was looking into the books. I hoped that he might find something else; but I was informed by him that he did not find anything except one or two items that were not very material, in my judgment.

Q. You had no acquaintance with Mr. Bosler?—A. None whatever.

Q. And the information or the suggestion which came to you came through another?—A. Came through another.

Q. At Bosler's request?—A. I do not know.

Q. Will you state to the committee who approached you upon that subject?—A. I do not think it is competent evidence. So far as I am personally concerned, Mr. Chairman, I shall state everything in relation to my own conduct, whether it is within the rules of law or not, but when it comes to referring to other people, I do not think I ought to go outside of those rules. I do not myself, Mr. Chairman, taking warning from some witnesses that have preceded me, approve of a witness, in testifying, disregarding all the limitations of law and of confidence. Whilst no law and no confidence should restrain him from stating anything whatever that affects himself, I think the limitations of the law and of confidence may, with propriety, restrain a witness to a certain extent from stating what affects others.

Q. You were a public official at that time and discharging your duty in a public capacity, were you not?—A. I was, sir.

Q. Then you were not supposed to have secrets?—A. I do not think I had many secrets except with my associates. We talked with a great deal of freedom, and all lawyers know that such consultations are to be respected as confidential.

Q. But if individuals other than your associates were to come to you to advise you as to the manner of prosecuting that case?—A. [Interposing.] If any individual were to come to me with an improper proposition he would receive instant punishment and a prompt disclosure of his conduct.

Q. You decline then to state who it was that interposed in behalf of Bosler?—A. I would prefer not to make the statement, unless you very decidedly insist.

The CHAIRMAN. I will not insist, unless the committee does.

Mr. STEWART. I think I should object to it as being incompetent, because whatever anybody said under such circumstance, to Mr. Merrick would not be evidence here against anybody. You would have to see that the man was Bosler's accredited agent.

The WITNESS. According to my best judgment there was not a single word that passed that was improper. All that I said in reply was, "If Mr. Bosler will give me those letters I don't care what becomes of him; but if he does not give me those letters I will pursue him as far as I can. I am determined to have those letters." And the answer was, "If he has those letters, or whatever letters he has, he will give them to you, of course."

Mr. VAN ALSTYNE:

Q. I understood you just now to take the position in withholding the name of that gentleman that you did it upon the ground of privilege; that it was in effect a confidential communication or conversation?—A. Well, no; I cannot say that, sir; for there were no obligations of confidence imposed at the time. The transaction was entirely open; but I withheld the name for the same reason that I gave certain directions when we engaged in the case. When I came into this case I found that the atmosphere was filled with suspicion. We had at the Department a list of individuals in Congress who were supposed to have had more or less connection with these transactions, and I found that such was the condition of the public mind that wherever a name was mentioned in connection with these matters the mention was at once construed to attach suspicion; a mere suspicion soon grew into serious accusation. Therefore I directed that no man's name should be mentioned in connection with these matters unless we had evidence upon which to indict. I gave those directions because I desired that the records and the officers of the Department of Justice should not be made the instruments of originating or communicating calumnies. The public mind is still sensitive upon this subject, so that the mere mention of a name in this connection, though the man be innocent as the unfallen snow, may do harm or wrong somewhere; and it is for that reason that I prefer not to answer your question.

Q. You have made mention of a conversation with some person who said that if Mr. Bosler had certain letters which you desired he would disclose them?—A. Yes; that he would do so as a matter of course.

Q. I will not ask you to mention the name, but you do not care, I suppose, if I ask you to exclude certain persons?—A. Yes; I prefer not to do that.

By the CHAIRMAN:

Q. Will you state why it was that Mr. Kellogg was not indicted before the statute of limitations ran, as to the passage of the drafts and notes?—A. That question I suppose is designed to draw from me a statement of the history of that transaction.

Q. Yes; state it fully.—A. After my interview with Mr. Walsh, to which I have referred, I availed myself of the first opportunity for a consultation with my associates, Messrs. Bliss and Ker (which occurred a day or two after the interview with Walsh) to bring the subject before them, and that consultation was, I am very certain, held in our lunch-room in the court-house. I informed them of what had occurred between Mr. Walsh and me, and stated that it was my intention to go to the Attorney-General, make known to him what had passed between Walsh and me, and request him to ask the court to have the grand jury reconvened. To explain my use of the word “reconvened” here. I should say that this was in the month of July, and the grand jury that had been summoned to attend upon the June term of the criminal court had been respite until the following October.

Therefore it is that I say my purpose was to have that grand jury reconvened; and my reason for having it reconvened instead of waiting until the coming October, when it would again come together, was that the important transaction in which Mr. Kellogg was guilty had its initiation about the 17th, 18th, or 19th of July, 1879, and what had transpired on the 17th, 18th, or 19th of July, 1879, would be barred by the statute on the 17th, 18th, or 19th of July, 1882, the month in which this consultation took place. It was necessary, therefore, that the grand jury should act, if they acted at all, upon the first part of that transaction prior to those dates. When I brought forward the proposition to my associates in the shape that I have indicated, Mr. Bliss, after a few moments reflection, said, “Don’t do that; I will go to the court myself and ask the judge to reconvene the grand jury.” I was greatly pleased at his taking this position, and I told him I was delighted to hear that he was willing to do that, because it was a matter which I considered closely affected his personal and official honor.

Thereupon, at the meeting of court after the recess Colonel Bliss went up to the judge and did request that he would reconvene the jury, telling him the occasion for it, and that it was a matter in which he felt a personal interest. I also went up to the judge’s desk while the colonel was still there, apprehending that he might need some assistance to induce the court to pass the order, and united with him in the request. The court thereupon said it would reconvene the grand jury. The grand jury was accordingly reconvened, and I think it came together somewhere between the 5th and 12th of July, and was organized before the 12th. Colonel Bliss went before the grand jury with Mr. Walsh as a witness, and before the day upon which a prosecution on account of this transaction of July, 1879, would have been barred by the statute the grand jury came down, having refused to indict.

By the CHAIRMAN:

Q. Was that the Mitchell grand jury?—A. No, sir; that was the Hutchinson grand jury. I observe that Mr. Hutchinson states in his testimony, which within the last few days, I have casually looked over, that they were expecting all the time that Mr. Price was to come up to supplement the testimony of Mr. Walsh, and that something had been said by Mr. Bliss upon that subject. Mr. Hutchinson must be mistaken about that, Mr. Chairman, because Mr. Price was not then available as a witness for the Government.

Q. You did not then rely upon Price at all?—A. Not at all. I relied upon Walsh and regarded his testimony as amply sufficient on which to find an indictment.

The examination was here suspended and the committee adjourned.

WASHINGTON, *June 14, 1884.*

RICHARD T. MERRICK recalled and further examined.

The CHAIRMAN. You may continue your statement, Mr. Merrick.

The WITNESS. Mr. Chairman, I see from the published account of my testimony that probably I ought to explain what I said in reference to the star-route juries. I presume that my statements as reported by the official stenographer need no explanation, but as published in the newspapers I think they do. My testimony in reference to the two juries referred to their average intelligence. I think I so stated. The first jury I regarded as possessed of an average intelligence, above that of ordinary juries in this or any other jurisdiction that I know of; the second jury as being very far below the average of intelligence. On the second jury there were two or three individuals who were probably more intelligent than ordinary jurors, but the average of intelligence on that jury was greatly below the ordinary average. And I will add, sir, that in my judgment the juries in this District, that I have seen in the several courts, those now serving as well as others, are equal to any juries in any jurisdiction in the United States for intelligence and for personal integrity. But I think it quite a misfortune that we have no law which, for cases such as the star-route cases and some of the cases in the criminal court, providing for the impanneling of a special jury.

Before I proceed with my testimony I am under the necessity of making also an important statement with regard to something that I said yesterday, in justice to a gentleman who had previously testified before this committee, and whose evidence as given, I undertook, for his sake, casually to correct. I refer to the testimony of Mr. Hutchinson, the foreman of the grand jury which was reconvened in July, 1882, for the purpose of considering the Kellogg case. In looking over Mr. Hutchinson's testimony very casually, I observed that he had stated that either that grand jury expected Mr. Price to appear before them and testify in connection with Mr. Walsh, or that Mr. Bliss had stated to them that Mr. Price would so appear and testify. I did not remember exactly yesterday which it was, but I thought and said that Mr. Hutchinson had undoubtedly fallen into an error in reference to that, because it was well known to everybody connected with the case that Mr. Price was not available as a Government witness at that time, and was not to be before that grand jury, and did not become available as a Government witness until the following December or January. For that reason I remarked that Mr. Hutchinson must be in error. Yesterday afternoon Mr. Hutchinson called upon me and stated that I had done him some injustice, and that he was not in error at all in the testimony he had given the committee; to which I replied that I certainly thought he was and that I had made the statement which I did to the committee as much for his benefit as for that of anybody else. He insisted that he was not in error in his testimony, and, after some conversation, I told him that it would give me great pleasure to make any reparation I could for any wrong that I had done him, and that, if he desired it, I would state to the committee to-day that he had called to see me and had informed me that in attempting to correct what I supposed was an error of his I myself had been in error; and in pursuance of that promise I make this explanation now, sir, to go upon your record.

Question. You have stated partially the conversation which occurred between you and Mr. Hutchinson; I think the committee have the right, perhaps, to know all that was said by him in reference to his tes-

timony.—Answer. Well, he himself is a competent witness upon that subject as well as upon any other.

Q. It is true that he is a competent witness, but he has been before the committee and made a statement and he may not be recalled. As he requested you to correct the statement that you had made in regard to him, I think the committee ought to be informed of the whole conversation, if anything else passed between you—of course I do not know that there did. Was there anything further said by him with regard to his testimony?—A. There was, of course, a good deal that passed between us, but the ultimate conclusion was that I should make the statement that I have made here.

By Mr. FYAN:

Q. Are you satisfied now that you were mistaken?—A. Am I satisfied that I was mistaken?

Q. Yes; that you were yesterday.—A. In attempting to correct what he said?

Q. Yes.—A. I am satisfied.

Q. Did he satisfy you of that by this conversation?—A. He did, sir.

Mr. FYAN. It seems to me, then, Mr. Chairman, that we ought to have the reasons that satisfied Mr. Merrick.

By the CHAIRMAN:

Q. Was his special attention called to that part of his testimony?—A. If the committee insist upon it I will state all that was said. I feel, on reflecting about it, that having given part of the conversation at Mr. Hutchinson's own suggestion, if the committee insist I ought give the whole conversation.

Mr. FYAN. It looks this way to me, Mr. Merrick: of course you may have some delicacy about repeating what Mr. Hutchinson said, but you have given us your conclusion. Now, you reached that conclusion from the conversation, and it seems to me that we ought to have the facts, so that we may arrive at a conclusion for ourselves.

The WITNESS. I had undertaken, Mr. Fyan, to correct what I supposed to be an error that a witness had fallen into, and the witness called to see me and told me that it was not an error, and that my kindly and well meant offices had been misplaced.

Mr. STEWART. It was only with reference to Price that you undertook to correct the testimony?

The WITNESS. That was the only point.

Mr. STEWART. Well, I do not see that there is anything to be gained by going into that any further. It stands now just as it did upon Mr. Hutchinson's testimony.

The CHAIRMAN. I desire to refresh my recollection by looking at Mr. Hutchinson's testimony to see wherein Mr. Merrick's statement was different. [After consulting the record.] I will ask the witness whether he has examined Mr. Hutchinson's testimony since he was on the stand yesterday?

The WITNESS. I did examine the testimony with Mr. Hutchinson himself when he called to see me.

The CHAIRMAN. Was any part of his testimony referred to and discussed at that time?

Mr. HEMPHILL. It seems to me, Mr. Chairman, that we ought to have this conversation in full if it was a matter of any consequence.

Mr. STEWART. Upon what principle is it admissible in evidence?

Mr. HEMPHILL. I do not know. If it had been objected to originally

it might have been excluded as not coming within the strict rules of law. The witness has merely made a correction of his testimony given yesterday. He said then that another witness was mistaken, and now he takes that back and says that the witness was probably correct.

The WITNESS. No, I do not say that.

Mr. STEWART. What did you say?

The WITNESS. I say that Mr. Hutchinson told me that I had been in error in my attempting to correct his testimony, and that his testimony was correct as it stands upon the record. I do not say that Mr. Hutchinson's testimony is correct. I replied to Mr. Fyan's inquiry whether Mr. Hutchinson had satisfied me, that had satisfied me.

Mr. FYAN. Satisfied you that you were mistaken?

The WITNESS. That I was mistaken.

Mr. FYAN. And that he was correct?

The WITNESS. That he was correct.

Mr. HEMPHILL. If Mr. Merrick had simply stated here that he was in error in what he said about this yesterday, that would have been merely a correction of his own testimony; but he has gone on to give a portion of a conversation with Mr. Hutchinson, and now I think we ought to have the whole of that conversation.

Mr. STEWART. He has not related any conversation. He has merely stated a conclusion.

Mr. HEMPHILL. He says that he had a conversation with Mr. Hutchinson, who told him and satisfied him that he was wrong in his testimony given yesterday. Now we want to know *why* Mr. Merrick was satisfied that he was wrong.

Mr. STEWART. The reason is not material. My point is this: If there is anything to this conversation at all, Mr. Hutchinson ought to be here for cross-examination.

Mr. HEMPHILL. That would be true if Mr. Hutchinson were on the stand and had made this statement, but he is not. Mr. Merrick is on the stand, and, without objection, he has undertaken to relate a portion of this conversation.

Mr. STEWART. He does not relate any conversation. He refers to a conversation and conclusion, namely, that he was mistaken in his testimony upon this point yesterday.

After further discussion the chairman remarked that the gist of the matter was what was said to the witness by Mr. Hutchinson, as to whether his (Hutchinson's) testimony should stand as originally given and recorded.

By the CHAIRMAN:

Question. I will read Mr. Hutchinson's statement on this point and then ask you a question about it. I read from the record, page 429:

By the CHAIRMAN:

Q. After you had heard the evidence did you ask the opinion of the district attorney as to whether it was sufficient to find an indictment upon, or did he give any opinion?—A. No, sir; I did not ask him and he did not give any opinion.

Q. Did he make any suggestions as to the sufficiency of the evidence?—A. No further than his great apparent anxiety to get Mr. Price there, and his anxiety that we should consider Price's testimony. He was confident that Mr. Price would be there, and he seemed exceedingly anxious to have him there.

By Mr. FYAN:

Q. Did he make any remark to the effect that it would be necessary to have Mr. Price there in order to find an indictment?—A. No, sir; not as broad as that; nor I don't think he intimated that.

Q. Did he convey any intimation to you to that effect by his declaration?—A. Not that it would be *necessary* to have Price there, but he seemed to be exceedingly anxious that Mr. Price should be there.

By the CHAIRMAN:

Q. Did he say whether the evidence that he hoped to produce from the examination of Mr. Price was necessary to make out a case?—A. Well, I think he said it would be “a clincher,” or something like that. My impression at the time was that he wanted Mr. Price’s testimony in order to make up the case; that it was necessary. I might have drawn that inference, though, because I thought it was necessary; or I might have drawn it from the manner in which Mr. Bliss said it; I don’t know.

Q. Then you drew from his manner that it was necessary to have Price’s testimony to make out a case?—A. No; I say I believe at the time he thought it was. Whether I was influenced in that way by my own opinion, because I thought it would be necessary, or whether I was influenced by his manner, I do not know; but I certainly thought that he thought so.

By Mr. VAN ALSTYNE:

Q. Are you willing to say whether or not you submitted your views upon that subject to the balance of your associates?—A. I would not say that.

Q. That is, you are not willing to say whether you did or not?—A. No, sir.

Was that evidence called to Mr. Hutchinson’s attention by you yesterday?—A. I do not think I read to Mr. Hutchinson the part that the chairman has just read, but I read what appears on page 427, if I am not mistaken, commencing about the seventh or eighth line. I had previously looked at the testimony very superficially and had only a general idea in my mind that Mr. Hutchinson had testified that Mr. Price was expected to appear before the grand jury, and that was what I attempted to correct yesterday. When I came to look more carefully I found a great deal more in it, and had I read the testimony before I testified I would not have undertaken to correct it. I read to Mr. Hutchinson what appears on page 427, and interrogated him with reference to it with a good deal of anxiety.

By Mr. FYAN:

Q. As I understand you, you based your declaration yesterday that Mr. Hutchinson was mistaken on the fact that among the counsel for the Government there was no expectation that Price was to be here at that time?—A. It was perfectly understood that he was not to be here. There is no doubt about that.

Q. And after your conversation with Mr. Hutchinson last night you changed your opinion and became satisfied that some of the counsel *had* informed him that they expected Mr. Price?—A. You are pressing me rather hard, Mr. Fyan, for an opinion.

Q. I want the facts. You say you changed your opinion?—A. I answered that before when you asked the question, though probably I ought not to have done so, because my opinion would hardly be matter for you to act upon. If the committee demand it I will give the conversation.

Mr. STEWART. The majority of the committee seem to so decide. I do not think it is competent, but the majority seem to think it is. I should be willing to leave the question to Mr. Merrick to decide, but he is not the committee.

The CHAIRMAN. I am willing to leave it to Mr. Merrick to decide the question whether when we are examining a witness and a portion of the conversation has been given we are not entitled to the whole conversation.

Mr. STEWART. Oh, that general rule has no application to this case. However, I will not interpose any further objection, except to say that in my judgment it is entirely incompetent and irregular.

The CHAIRMAN. You may proceed, Mr. Merrick.

The WITNESS. I regret that the committee require me to state the conversation, because I dislike to repeat conversations, but since it is

required in this case, and the subject is before the committee, and I am testifying as a witness, I feel that I am obliged to give it. Mr. Hutchinson called upon me last evening, I think, the first time he had ever been at my house (I knew him only slightly, but esteemed him), and stated to me what I have already detailed to the committee. I replied to him: "Mr. Hutchinson, you must be mistaken." Said he, "I am not mistaken, sir." Said I, "It is impossible that you should be correct, for it was understood and well known to us all that Mr. Price was not to be here. He was not available. You misunderstood Mr. Bliss." Mr. Hutchinson insisted that he had not misunderstood him. This conversation, thus far, I think, had taken place in my parlor. I said to him, "Come into my office and let me look at the record, and see what you have said." My office adjoins my residence. We went in, and I found his testimony and read to him from page 427. I did not read from page 430; I did not have my attention called to that until afterwards, and did not know that there was any more on this subject in the record than appears on page 427, in which he says:

We were promised on Friday that Mr. Price would be there Saturday almost to a certainty, but he did not come. I suppose, however, that the Government attorneys were not to blame for that.

By Mr. FYAN:

Q. Who made that promise?—A. Mr. Bliss.

By Mr. STEWART:

Q. Do you know why Price did not come?—A. I do not.

Q. Was any reason given?—A. Simply that he did not come. We understood that he was to come, but, as a matter of fact, he did not come.

Q. Do you know where Mr. Price was at that time?—A. I do not.

Q. Was he under arrest?—A. No. My opinion is that he was in Canada at that time. I think Mr. Bliss said that he had, until recently, been in Canada, but that he (Bliss) had learned, through a respectable source, that he would be there the next day.

Q. But he was not there?—A. He was not there.

I read that and I said, "Now, Mr. Hutchinson, you are mistaken about this. Mr. Bliss stated that Price would be here *on the trial* of the case, not before the grand jury." Said he, "I am *not* mistaken, Mr. Merrick." Said I, "You must be mistaken, because Mr. Bliss told me this morning after I had testified that, in reference to this correction I had made in your testimony, I was right; that he had said that Mr. Price was to be here *on the trial*. You must be in error about it." Said he, "*I am not* in error, sir, and I want you to understand that I am not mistaken, and that what I said is so and can be proved to be so by the grand jury." Said I, "Could you not have misapprehended Mr. Bliss? You amaze me. I am convinced you must have misapprehended him." He replied that he had not misapprehended him, and could not have misapprehended him; that the grand jury had adjourned over one day for the purpose of having Mr. Price there, and waited for him next day and expected him, and that as he did not appear, they came into court and reported. I interrogated him in reference to some other matters connected with what had taken place before the grand jury, but this is substantially everything that passed in reference to the testimony that he had given here before this committee. As to the other matters that took place before the grand jury, I suppose the proper witness to testify to them would be Mr. Hutchinson himself, unless he has testified about them already.

Q. Have you stated the substance of the conversation?—A. I have stated the substance of it all. Although the conversation was much more protracted than what I have said would indicate, the questions

and the answers in the rest of the conversation were but different forms of the questions and the answers that I have given here.

Q. State to the committee in this connection when it was that Mr. Price was first available to the Government as a witness, either before the grand jury or on the trial of the cases?—A. Shall I answer that question in brief, categorically?

Q. You may make any explanation in connection with your statement of the fact.—A. The affidavit of Price, which is in the Post-Office or in the Department of Justice one, will fix the precise date at which he became available. The time was about five or eight days after the date of the affidavit, and that was some time in the latter part of December, 1882, or the first part of January, 1883. After the failure of the grand jury of which we have been speaking to indict Mr. Kellogg, in view of my conversation with Mr. Walsh, to which I have already testified, and in view of the impression made upon my mind as to Mr. Kellogg's relation to this transaction for which he was afterwards indicted, I determined, if possible, to get Mr. Price for the reason that was, as I supposed, controlling the action of all the counsel for the Government, which was that, as we regarded any participation in criminality of this character by a public official as of much greater enormity than a fraud perpetrated in the same matter by private individual, wherever we could get testimony from the private individual sufficient to convict the public official, and could get it in no other way, we would accept the private individual as a Government witness in order to punish the greater criminal. In August, 1882—no, later than August—after the trial was over, in September or October, whilst I was in New York, the son of Mr. Price called to see me and told me that his father desired to be rid of this criminal prosecution which was then pending against him as a co-conspirator with Brady for fraud upon the Government in connection with the Indianola and Corpus Christi and the Corpus Christi and the San Antonio routes. I replied that his father could be rid of it, that if he would disclose to me everything that he knew in connection with the frauds upon those routes, and all that he knew that had relation to Mr. Kellogg and to Mr. Brady, I would take the matter into consideration, and that if it was sufficient, I thought he could be rid of further trouble as a defendant; for the reason, then stated to him and which I have just stated to the committee, that the counsel for the Government, in view of the obligations resting upon them, desired first to punish the greater criminals, and, if necessary, were prepared to do that by taking the testimony of criminals of lesser grade. Something further was said, and I then told him, "I want no further conversation with you now, sir, upon this subject; what I say to you can be relied upon. I must be put in communication with your father if you come from him with authority. Go back and tell him what I have said." Subsequently, in the fall of that year, the counsel of Mr. Price came on from Louisiana to see me. It is unnecessary to state what passed. These negotiations were the subject matter of the discussion. Later Mr. Celsus Price, of Missouri, a gentleman whom I learned to esteem of very high character, came on with J. B. Price, the defendant, and called upon me in reference to this subject. I repeated to him substantially what I had said to Mr. J. B. Price's son in New York, and told him that first, he must lay before me a written statement of what Mr. Price would say, and state to me all that Mr. Price knew, and that if the statement was sufficient and I concluded that it was in fact all that he knew, then the Government would probably accept him as a witness. A statement was drawn up and brought to me. I required it to be

sworn to, and it was sworn to. I examined that statement with a great deal of care. I concluded that the statement was entirely sufficient and I was impressed also with the belief that it was probably, although not certainly, all that Mr. Price knew. Regarding the statement as entirely sufficient to prove beyond the possibility of a doubt the guilt of Mr. Kellogg, I called Mr. Woodward into consultation with me and showed it to him and read it to him; and I then called Mr. Bliss into consultation. That was, I think, in the middle of December. I showed him the statement in my office, which was then a few doors farther west than the office which I now occupy, as the office adjoining my residence had taken fire and was then undergoing repairs.

By Mr. STEWART:

Q. That affidavit was sworn to on the 29th of December?—A. Yes, sir. It is unnecessary, at least for the present, to say what passed in that conversation with Mr. Bliss.

Q. With whom do you say that conversation was?—A. Mr. Bliss.

Q. Did it relate to the sufficiency of this testimony?—A. It related to the testimony.

Q. Was there any difference between you as to the propriety of accepting Mr. Price as a witness at that time?—A. There was a very decided difference, as Mr. Bliss has himself stated to you, gentlemen. It was very decided.

By Mr. FYAN:

Q. This interview and consultation with Mr. Bliss, and of these conversations with Mr. Price's son and with Celsus Price, and the furnishing of this affidavit, were long subsequent to the action of the grand jury, were they not?—A. The action of the grand jury was prior to the 18th of July, 1882. My conversation with young Mr. Price in New York was after the close of the trial in September 12, 1882. My conversation with Celsus Price was some time in December or November, 1882. The negotiations were very protracted. I never saw Mr. J. B. Price. I refused to see him. I never spoke to him in my life, and would not know him to-day if I should see him. I preferred to deal with him through others. After the conversation with Mr. Bliss, in my office, in which we differed radically, I submitted the matter to the Attorney-General. Indeed, our conversation closed with the understanding that the radical difference between us upon this subject could only be settled by our common superior, the Attorney-General.

By the CHAIRMAN:

Q. I think you had better explain in what that difference consisted, and whether it related to the sufficiency of Price's testimony.—A. Perhaps I can do that better presently. Each of us saw the Attorney-General. Mr. Bliss saw him, if my memory serves me right, before I did; at any rate we did not see him together at that time. The Attorney-General determined that, in order to settle this difference and decide this very serious question properly, it was necessary that there should be a meeting of the counsel in the case with him, and accordingly, a meeting of the counsel was directed to take place at his house. Messrs. Bliss, Ker, and myself were present. I think we met at the Attorney-General's house about half past 7 or 8 o'clock in the evening, and we left not earlier than 11 o'clock, if I am not very much mistaken. At that meeting I brought forward the affidavit of Mr. Price, and stated my views. Mr. Bliss antagonized those views. He took the ground that the statute of limitations barred the indict-

ment: that the transaction between Mr. Kellogg and Mr. Price had taken place on the 18th day of July, 1879 (I think it was the 18th; it was the 17th, 18th, or 19th), and at the time of our discussion we were in the month of December, 1882. I replied that it was true that the statute of limitations barred the transaction of the 18th of July, 1879, which transaction was, according to the affidavit I had before me, a delivery to Mr. Kellogg by Mr. Price of five drafts upon the Post-Office Department of \$3,000 each, and a promissory note of \$5,000. These five drafts were payable quarter by quarter as the quarter's pay should accrue due on the routes from Corpus Christi to San Antonio, and ran through the years 1880 and 1881—I do not remember exactly how far, but very far down. And these drafts and that promissory note, according to the affidavits, had been delivered to Mr. Kellogg in consideration of his getting increase and expedition upon certain routes. The order for the increase and the expedition upon these routes we regarded as fraudulent. They had been already, by the grand jury, found to be fraudulent when an indictment had been found against Brady and Price for conspiracy to defraud the Government through the instrumentality of those orders of increase. I replied to Mr. Bliss, that although that first transaction was barred by the statute of limitations, yet, the payments upon the orders came within the prohibitions of the law, and those payments were not barred. The discussion became very excited, and probably more emphatic than it would have been in our cooler moments. The Attorney-General heard us through, and called upon Mr. Ker for his opinion, and Mr. Ker's opinion coincided with mine. The Attorney-General then said, at the suggestion of somebody or of his own motion, I do not remember which, that Mr. Woodward should take the affidavit that I had and put himself in communication with Mr. Price and get a fuller affidavit. I ought to say, in that connection, that Mr. Bliss objected to the affidavit that I had, because it was not sufficiently full and complete, and because he believed Mr. Price could testify to a great deal more; he believed Price guilty, and felt that he ought to be prosecuted under the indictment pending against him. In obedience to that order of the Attorney-General, Mr. Woodward put himself in communication with Mr. Price, and subsequently produced the affidavit which the chairman has shown me here, and which bears date the 29th of December, 1882. The conference with the Attorney-General closed with the understanding that Mr. Woodward should put himself in communication with Mr. Price, get from him a statement of all that he knew, put it in the shape of an affidavit and submit it to the Attorney-General, and then if the Attorney-General thought it was sufficient, and that, under the circumstances, it was proper that Mr. Price should be subpœnaed as a Government witness, he would say so. We were done with the question. It had gone to our superior. On the 29th of December, 1882, this affidavit was made, and Mr. Woodward informed me at the time that he had given it to the Attorney-General; and a few days later, I don't know how many, probably two or three, I received a communication from Mr. Woodward, as did the other counsel, informing us that the Attorney-General had concluded to accept Mr. Price as a witness. Then, for the first time, Mr. Price became available as a witness for the Government. In this connection I may correct an error of my brother Ker. He has stated in his testimony that when the indictment was found against Mr. Kellogg, Colonel Bliss left the case in anger. The indictment against Mr. Kellogg was not found until some time in April, although the grand jury acted upon the subject in February.

Mr. KER. What do you call finding the indictment?

The WITNESS. Presenting it to the court.

Mr. KER. That is another thing. Presenting it is one thing, and finding it is another. They find the indictment when they find it.

The WITNESS. Well, I should like you to find it until it is presented.

Mr. KER. Well, at all events, that was what I meant.

The WITNESS. I am not speaking of your intention—I am speaking of the use of technical language. Mr. Ker is in error with regard to that, and I think he will admit that he is.

Mr. KER. What is that that you want me to admit?

The WITNESS. Mr. Bliss was in New York, if I am not mistaken, at the time the Attorney-General acted upon the affidavit presented by Mr. Woodward. Am I right?

Mr. BLISS. Yes; it was acted upon on Monday, and I got back Monday night.

The WITNESS. He had gone to New York on Friday, I presume, as usual, and got back on Monday night. When he returned he found that the Attorney-General had acted upon the affidavit of Mr. Price presented by Mr. Woodward, and he was met with a communication from Mr. Woodward stating that Mr. Price had been accepted as a witness. I think that communication came to us while we were at our lunch.

Mr. BLISS. I received mine at my house after I got back.

The WITNESS. I don't know how that was, but the conversation that took place between us upon the subject was on the day of Mr. Bliss's return or the day after, when we were at our lunch at recess.

By Mr. FYAN:

Q. Whom do you mean by "us"?—A. I refer to the consultation between counsel.

Mr. BLISS. I think you are wrong, Mr. Merrick.

The WITNESS. Colonel Bliss then said that if that was the case, if Price was to be accepted, he would retire from the star-route cases. I told him I thought that was very unwise and injudicious, and that I regarded it as a breach of duty. What else was said about it I do not remember, except this: Said he, "I will continue through the rest of the session of to-day, but I will not be in court after to-day." He did remain during that day, and that night Mr. Ker and I prepared to go on with the testimony the following day, and for the exigency of Mr. Bliss's absence; and we went into court next day and Mr. Bliss remained out.

Mr. BLISS. Have you looked at the record? I was in court next day.

The WITNESS. I do not think I can be mistaken about that.

Mr. BLISS. Look at the record.

The WITNESS. I will look at the record.

By the CHAIRMAN:

Q. What case was being tried at that time?—A. This was the second trial of the Dorsey-Brady case.

Mr. BLISS (referring to the record). The record shows that on Tuesday, the 2d of January, I was in court; on Wednesday, I think, I was out of court; on Thursday the record shows that Mr. Bliss opened the proceedings of the court.

The WITNESS. That is all right, then. The one day that Mr. Bliss remained out of court appears by the record to have been January 3, and on Thursday, January 4, he was in court again.

Mr. BLISS. And opened the proceedings.

The WITNESS. On January 3 (my memory being refreshed by that record) I stopped at the Post-Office Department to see Mr. Bliss, and found him preparing his papers for the purpose of leaving the case. I closed the doors in order to have a private conversation with him, and I there urged upon him many considerations of public interest, as well as other considerations personal to himself, that I thought ought to induce him to remain where he was and not pursue the rash course, as I regarded it, that he contemplated. He said he felt that he had been badly treated by the Attorney-General and by the counsel, because of this matter having been acted upon in his absence. He made no complaint whatever in reference to the indictment of Mr. Kellogg. He did not give that as a part of his grievance at all, but said that he had been treated with a want of consideration and courtesy by the Attorney-General and the other counsel, in the fact that this matter had been acted upon whilst he was absent from the city. I distinctly remember my reply, which was in substance this: "At the meeting of counsel with the Attorney-General, when we discussed the subject, it was agreed that this matter should be given in charge to Mr. Woodward, who was directed to put himself into communication with Mr. Price, prepare an affidavit embodying all that Price knew, and submit it to the Attorney-General, who was then to take action upon it by himself, without the intervention of any of the counsel; and I have not since that day seen the Attorney-General, nor spoken to him upon the subject; nor would I have felt privileged to do so had I desired. Therefore, you cannot feel that you were treated with any discourtesy whatever by either the counsel or the Attorney-General. Now, return to the case and let us work on harmoniously." I regarded at that time (although I want to avoid the expression of opinions and do not intend to express any) Mr. Bliss's presence in the case as very important. It was understood by the public that he was the special representative of the administration.

Then, too, he is one of the best of workers and the most efficient man in the management of voluminous and tangled papers that I have ever met with in my life, and he was doing his work in the case with great ability.

Mr. STEWART. You converted him?

The WITNESS. He returned to the court the next morning.

Mr. BLISS. Mr. Merrick, should you not say at this point, in justice to me, that I said that my understanding was different from yours as to the conclusion reached at the conference with the Attorney-General—that I supposed it was understood that after Mr. Woodward should have got a new statement from Price, I should have an opportunity to examine it in order to see whether it met the objections that I had made to the affidavit you had, and that you said that was not your understanding.

The WITNESS. I think Mr. Bliss's statement is correct, and should supplement what I have said on this point.

By the CHAIRMAN:

Q. At the interview between the Attorney-General and the counsel, to which you have referred, did the Attorney-General give you his conditional decision in reference to this matter, and was it understood that if the affidavit met the views suggested, then the Attorney-General was to decide the matter?—A. The Attorney-General so indicated, to the best of my recollection. The interview, as I have said, was a little heated, and the Attorney-General said to us once or twice, "Gentle-

men, you must be calm," and my impression is that he said to us at that time (if I am wrong I trust that either Mr. Ker or Mr. Bliss will correct me, as they are both present) that whoever was guilty in these transactions must be punished, and he agreed with my view, that a public functionary who had been guilty, not only of criminal conduct, but also of a breach of trust, more richly deserves punishment than a mere private individual.

Mr. BLISS. He did say that; to which I replied that he must remember that by accepting Mr. Price he was relieving Brady, who was also a public official. I think, Mr. Merrick, you are right in thinking that the Attorney-General indicated that his tendency was to accept Mr. Price as a witness. I do not think he said so, but I think he indicated that tendency.

The WITNESS. I think it is probable that I replied to Mr. Bliss's statement (if such a statement was then made—I do not now recall it) that he was wrong in saying that the acceptance of Mr. Price relieved Mr. Brady, for the reason that, in my judgment, it only involved Mr. Brady the more deeply, and, in fact, Mr. Brady was subsequently indicted on Mr. Price's testimony. Was there one or were there two indictments found against Brady on Price's testimony, Mr. Ker?

Mr. KER. Only one.

By the CHAIRMAN:

Q. Was the acceptance of this affidavit of Mr. Price's in any way conditional upon the fact that it would or would not affect Mr Kellogg?—A. I do not understand the question.

Q. Was that question discussed before the Attorney-General?—A. Whether it would affect Mr. Kellogg or not?

Q. No; whether the Price affidavit should be rejected or received for the reason that it would or would not involve Kellogg. Did the Attorney-General express any opinion as to that?—A. Well, I do not know whether he expressed any opinion upon that subject at that time or not, but the subject of Mr. Kellogg being implicated in this criminality and his indictment has been frequently talked of by the Attorney-General and he has uniformly said that no matter who or what he was, if he was guilty he should be prosecuted.

By Mr. FYAN:

Q. What was the object of accepting Mr. Price as a witness?—A. The object of accepting Mr. Price as a witness was to have an indictment against Mr. Kellogg. That was the only subject discussed, except the incidental consequences of accepting Price's statement; Mr. Bliss said he thought that its acceptance, while it involved Mr. Kellogg, would relieve Mr. Brady. I thought differently; I thought it would involve Mr. Kellogg, and also involve Mr. Brady more deeply.

By the CHAIRMAN:

Q. Was anything said with regard to the impropriety of indicting a Senator, owing to its effect upon the party majority in the Senate at that time?—A. I do not think that anything whatever was said upon that subject, Mr. Chairman, at that time. Something has been said upon that subject at other times by myself. Other persons may also have spoken of it, but what I have said myself I can testify to. When I got that affidavit and Mr. Price was accepted as a witness, for reasons that I deemed sufficient I directed Mr. Ker to go before the grand jury. Mr. Bliss had theretofore been before the grand jury as the representative of the Government. In this case I directed Mr. Ker to go, and directed

him to qualify by getting a commission, which would justify him in getting an appointment from the district attorney.

Mr. BLISS. Which he did not do.

The WITNESS. That was my direction; and I said to Mr. Ker that I wanted it understood distinctly that I had no personal or political feeling about this matter, and that I deemed it best, as there was no possibility of any statutory bar running between the middle of January (the time when I ordered him to go before the grand jury, I think) and the 4th of March, the end of Mr. Kellogg's term as a Senator, it would be better (whilst giving the evidence at once to the grand jury, so as to let them determine upon what they would do in the matter) not to bring down the presentment until after the 4th of March. Am I right, Mr. Ker?

Mr. KER. That is correct.

The WITNESS. I had previously said, in July, I think, or in August, as I had been accused very bitterly and virulently by Mr. Kellogg and others of pursuing him out of political and personal ill-will, and of having a design as a Democrat to withdraw him as a Republican from the Senate at a time when the majority was so close that the withdrawal would embarrass his party and perhaps change the political complexion of the body, that although I intended that Kellogg should be indicted before the statute could operate as a bar, yet I did not propose that he should be tried until after he should have ceased to be a Senator. And I will say to the committee that, whilst I thought he ought to be indicted, I did not think, as the time was so short, and in view of all that had been said upon the subject and the influences that had been brought to bear upon the jury, that it was expedient to have a trial of the case until after the 4th of March, when he would retire from the Senate.

Mr. BLISS. We were engaged in the other trial, and could you have tried Kellogg?

The WITNESS. We were in the trial and could not have done it; but, independent of that, even could we have tried the case at that time, I should have said no, because the fact of his position as a Senator would have had some influence with the jury and of course others would have been interested in not having him convicted. Now, I want to say one other thing in this connection. I have said to the committee, in answer to their inquiries, that I had nothing whatever to do with the finding of these indictments by the grand jury, and that I had nothing to do with the preparation of the evidence in cases to go before the grand jury, but I stated at the same time that there was one exception which would be explained later. That exception is the Kellogg case. It is the only case in which I had anything to do with the testimony that was to be laid before the grand jury or with directing an indictment, and I had to do with that case for the reason that, in my conversation with Mr. Walsh, as I stated yesterday, the fact of Kellogg's criminality came directly before me, was immediately presented to me, and I felt that I could not, without being guilty of a serious official delinquency, fail to notice it and to have it properly passed upon by a judicial tribunal. That was the only case in which an indictment, or in which no indictment, was found, in which the guilt of an individual was brought distinctly before me, except in the case that I tried.

By the CHAIRMAN:

Q. State why it was that you caused Mr. Ker to appear before the grand jury in the Kellogg case?—A. Mr. Walsh was to be a witness before the grand jury. Mr. Walsh and Mr. Bliss were not friends; or

rather Mr. Walsh had a very bitter prejudice against Mr. Bliss. That was one reason, and one would be enough; but there was another, which was that as Mr. Bliss and I had antagonized each other upon this Kellogg case, and I was determined that this testimony, which I thought conclusive, should be fully developed before the grand jury, I did not deem it expedient that Mr. Bliss, who was apparently the friend of Mr. Kellogg (though probably disposed and willing to do his full duty), should be charged with the unpleasant office of bringing that man to justice.

Q. At the time Mr. Ker appeared and the indictment was found, what was the decision of the counsel as to the dates that should be placed in the Kellogg indictment and the offense that should be set forth in it?—A. As I had directed Mr. Ker to go before the grand jury, and had been instrumental throughout in obtaining Mr. Price as a witness, Mr. Ker very naturally looked to me for direction in reference to the indictment. We consulted upon the subject, and in, I think, our last consultation I told him how I thought the indictment should be prepared. I told him that the indictment should contain various counts, as many as he pleased, *counting* upon the post-office drafts that had been given by Mr. Price to Mr. Kellogg on or about the 18th of July, 1882, and which, according to Mr. Walsh's testimony, Mr. Kellogg had placed in his hands, as his, Kellogg's agent, to collect, and out of the proceeds to pay him, Kellogg, one-half, and to pay Mr. Brady the other half; and that the indictment should charge in these respective counts that Mr. Kellogg had received the one-half of those drafts on the respective days upon which the warrants that were issued upon the drafts were paid. And in order that there might be no misunderstanding between my junior and myself, and that the responsibility might rest where it belonged, I gave Mr. Ker a written statement as to how I wanted that indictment drawn. I dictated it and gave it to him, leaving it discretionary with him as to how many indictments within a certain limit should be found, but specifically directing one or two, and the indictment is drawn, including the dates, according to my direction. A lawyer should never swear to his opinion, but, suspending for a moment the operation of the oath, I say that in my humble judgment, that is as good and solid an indictment as ever went into a court of justice.

Q. This [producing a paper] is the indictment, I believe?—A. I presume that is the indictment.

By Mr. STEWART:

The gist of the offense, as you directed the indictment to be drawn, was the receipt of the money?—A. Yes, sir.

Q. Not the delivery of the drafts, but the receipt of the money when the drafts were collected?—A. The delivery of the drafts by Mr. Price to Mr. Kellogg had taken place on the 18th of July, 1879. I was extremely anxious that an indictment should be found prior to the 18th of July, 1882, for the reason that on the 18th of July, 1882, the offense of *agreeing to receive* the money and of *receiving* the drafts would be barred by the statute of limitations; but, as no indictment was found prior to the 18th July, 1882, and we were dealing with the subject in the month of January, 1883, I directed the indictment to be found under that provision of the statute which says that whoever *agrees to receive* or receives money shall be guilty, &c., and therefore the date that was to be put into the indictment was the date upon which Mr. Kellogg received the money by the hand of his agent appointed to collect it. I regarded the delivery of the drafts as, in law, the delivery of any other

paper, a check or any other promise to pay money. The delivery of the paper in such cases is not the payment of the money; it is the transfer of the right or the possibility of getting the money at the time specified for you to get it in the paper delivered. Now, these drafts given by Mr. Price to Mr. Kellogg were drafts specifying that they were to be paid at certain dates and the payment was to be made out of the money derived from the fraud perpetrated on the Post-Office Department, probably in conjunction with Mr. Price and Mr. Kellogg, in increasing the pay upon certain routes. The drafts were drawn anterior to the date of the order of increase, I think, by two days, but they covered and specified the exact amount of the fraud which was to be perpetrated, and which was perpetrated two days after their date. Now, if you will look at the statute you will see that it provides for an *agreement to receive* and also for *receiving* money.

Q. What was the point on which the case went off?—A. I did not try the case.

Q. I thought you were present at the trial?—A. No, sir; I went into court some two or three weeks prior to the date of the trial. I was still in the cases and I went into court in response to a motion made by the defendant to have a day fixed for his trial. At that time we had been unable to find Mr. Walsh and could get no trace of him. We went into court and argued the motion. The court determined to fix a day for the trial. I thought the action of the court was not according to familiar precedent, in constraining the Government to go to trial when the Government stated it was not ready, and, immediately after the adjournment of court on that day, for reasons which I deemed sufficient, I withdrew from the case. Mr. Walsh was subsequently obtained, and the trial took place on the day fixed, but I was not present upon that trial. I withdrew from the case and from all the other star-route cases.

By the CHAIRMAN:

Q. What is the section of the statute to which you refer?—A. The section to which I referred is section 1782, and is as follows:

No Senator, Representative or Delegate, after his election and during his continuance in office, and no head of a Department, or other officer or clerk in the employ of the Government, shall *receive*, or *agree to receive*, any compensation whatever, directly or indirectly, for any service rendered or to be rendered to any person, either by himself or another, in relation to any proceeding, contract, claim, controversy, charge, &c., in which the United States is a party.

This indictment was prepared under that alternative provision of the statute which forbids the receiving of money for the purposes specified there either directly or indirectly; and the charge was that he had received the money on the day the money was paid.

Q. Was there any motion made while you were in the case to quash this indictment or to dismiss the suit?—A. Yes, sir.

Q. Did that involve the question as to these drafts?—A. It did involve them to some extent. There were a variety of motions made. I think that Mr. Ker and I spent nearly the entire month of July, 1883, in attendance upon the court, not every day, but every four or five days, in the argument of some motion or other made for the purpose of getting rid of this indictment.

Mr. BLISS. The chief motions came on toward the end of June.

The WITNESS. Yes, they come on in the end of June. Almost every possible motion that could be made against an indictment was made for the purpose of getting rid of this indictment, and they were argued very fully and very elaborately within the period I have indicated and

were uniformly overruled. After the court had overruled all these motions made within the time that I have mentioned, the latter part of June and July, if my recollection is right, the court fixed the case for trial on the second Monday of December.

Mr. KER. We notified them that it would be called up in October, but it was finally fixed for December.

The WITNESS. Yes, fixed for some time in December; and at that time some suggestion was made as to the insufficiency of the indictment on account of these allegations as to dates. I have not a very distinct recollection of that, but it is my remembrance that the court then indicated its opinion that the dates were correctly set forth under this act, and that the charge in the indictment was not a charge having reference to the 18th of July, 1882, when the drafts were delivered, but was a charge having relation to the dates on which the money was paid.

Mr. KER. Yes.

By the CHAIRMAN:

Q. Assuming that Mr. Price appeared at that trial, and testified to matters which he had previously indicated in his affidavit that he would testify to, was the indictment so framed as to make his testimony admissible as a part of the *res questæ* of that case?—A. Mr. Chairman, you are asking me a question of law, not of fact.

Q. Yes. It seems that this case was disposed of after the hearing of Mr. Price's testimony; for the reason that that testimony did not fit the allegations in the indictment, and I want to know how that was.—A. Mr. Price's testimony, in my view of it (allow me to say that I have great respect for any opinion Judge Wylie may give), was testimony which did not go to the direct charge in the indictment of the payment of money to Mr. Kellogg, but was preliminary to that direct testimony, and was needed, in connection with Mr. Walsh's evidence, to make it a complete case. Mr. Price delivered the drafts to Mr. Kellogg on the 18th of July, 1882, and, as Mr. Price testified, those drafts were delivered in consideration of Mr. Kellogg's doing what the act of Congress that I have read, section 1782, denounces as a crime. Now, those drafts were not payments to Mr. Kellogg, but Mr. Kellogg took those drafts (Mr. Price having proved that he so received them) to Mr. Walsh and gave them to Walsh to collect for him, and when Mr. Walsh collected those drafts as Mr. Kellogg's agent and received the money and paid it to Mr. Kellogg, *that* was the time and *that* was the transaction in which the actual criminality was involved. Of that Mr. Price was necessarily not cognizant; although he of course knew when the drafts would be paid at the time he delivered them.

Mr. STEWART. I see in looking at the indictment that in at least one count (I don't know how many counts there were in the indictment) or offense is charged in this way:

To wit, on the said nineteenth day of April, in the year of our Lord one thousand eight hundred and eighty, at the county and District aforesaid, and within the jurisdiction of the said court, did unlawfully take and receive from the said James B. Price the sum of one thousand five hundred dollars lawful money of the United States of America, of the value of one thousand five hundred dollars, of the money of the said James B. Price, as and for a fee, reward, and compensation in consideration of and payment for the said service rendered by him the said William Pitt Kellogg to him the said James B. Price, &c., &c.

Now, it appears that Price testified, not that he paid Kellogg the money, but that he had delivered him these drafts; and upon that Mr. Wilson seems to have moved to strike out the testimony, I suppose upon the ground that it did not sustain the allegation in the indictment.

The WITNESS. The testimony of Mr. Price did not go to the fact there read by you. The testimony of Mr. Price went to the fact that he had delivered a *draft* to Mr. Kellogg, or on a check, pretty much the same sort of a thing; for Price had control over the fund until the draft was paid. It was *his* money; *he* could have controlled it; *he* could have revoked those drafts or orders. Now, Mr. Kellogg takes the draft and gives it to Mr. Walsh. It is a draft upon Price's money, and Walsh gets that portion of Mr. Price's money which this draft authorized him to get, and gives it to Mr. Kellogg; therefore Mr. Kellogg *received* that money on the written instruction or order of Mr. Price at that date.

By the CHAIRMAN:

Q. Then Price's testimony was relevant to prove simply the antecedent facts?—A. The antecedent facts.

Q. Then how do you account for the failure of the case after the delivery of Mr. Price's testimony?—A. I did not try the case, Mr. Chairman.

Q. I am aware of that fact; but can you account for the failure?—A. You are, gentlemen, all better lawyers than I am, and——

The CHAIRMAN (interposing). Not at all. The Government selected you as its representative on account of your ability in that kind of business, and we desire to be enlightened.

The WITNESS. I am much obliged to you.

Q. Was there anything wanting in the indictment or any want of preparation by the Government which, in your judgment, caused a failure of justice at that particular place?—A. According to my best judgment, there was not. I am myself unable to account for the result of the case. I have not examined Judge Wylie's opinion. The indictment, as I have stated to you, Mr. Chairman, was prepared under my direction, and I have no doubt that Mr. Ker in the trial of the case did his duty in presenting it to the court. I do not know what he did do, but he is a faithful and a capable lawyer. A copy of one of the Price drafts, to which I have referred as having been handed by Price to Kellogg, has just been placed in my hands, and this is how it reads:

\$3,000.]

WASHINGTON, D. C., July 16, 1879.

The Auditor of the Treasury for the Post-Office Department—

Will please pay to myself or order the sum of three thousand dollars and —— cents out of any moneys due me on route No. 31148, San Antonio to Corpus Christi, in the State of Texas, for the quarter ending March 31, 1880.

I certify that this is the only draft drawn on said route for said quarter.

J. B. PRICE,
Contractor.

Witness:

A. N. ZEVELY.

J. M. EDMUNDS,

Postmaster at Washington, Dist. of Col.

Drafts must be witnessed by a postmaster and one other responsible party.

Drafts must be properly indorsed by the payee and all subsequent holders, with their post-office addresses, before they will be placed on file.

Drafts will be filed subject to fines, deductions, collections, the amount due the subcontractor, in accordance with the act of Congress approved May 17, 1878, and any claim or demand the Post-office Department may have against the contractor.

On the back is the following:

31148; 1st qr., '80. Draft.

Ack'd November 1.

Route ——, —— quarter 187—.

For returns to ——.

J. B. Price.

J. A. Walsh.

Then there are upon this paper two stamps, one reading :

Auditor's office, P. O. D., Oct. 23, 1879, pay division.

Now, this draft was drawn before the order was passed making the expedition on the route designated in the draft, for payment out of the amount that would become due at the date mentioned in the draft, that quarter, on account of the expedition, and was indorsed by Mr. Price; and, according to Mr. Price's statement, was, on the 18th of July, 1879, delivered to Mr. Kellogg, and, according to Mr. Walsh's statement, Mr. Kellogg delivered it to him and directed him to collect the money when it became due and to pay to him, Kellogg, \$1,500 of it, and to pay to Mr. Brady \$1,500 of it; and, according to my theory, when this draft was delivered by Mr. Kellogg to Mr. Walsh he became the agent of both Kellogg and Price; of the latter by reason of Mr. Price's indorsements on the back, to execute the written order in the draft, supplemented by the verbal order he received from Mr. Kellogg as the holder of the draft.

Q. Then the date of the offense in this indictment which went to trial was the payment of the money, and not the passage of the draft?—A. Yes, sir; the payment of the money and not the passage of the draft.

Q. Then, why was not that issue tried in the case?—A. That is more than I can tell you, Mr. Chairman. I did not try the case.

Q. There was no controversy in the case and no pleading that raised the question as to the passage of the drafts, but the question was as to the receipt of the money?—A. Yes, sir.

Q. Then the testimony of Price was only a part of the case, and a very small part of it, and did not really go to the merits of the case?—A. I myself had so regarded it.

Q. Was that the opinion of the Attorney-General when he decided to accept Mr. Price's testimony?—A. I so understood it, sir.

Q. At the time you had the consultation on that subject with the Attorney-General the statute of limitations had then run, had it not as to the passage of the drafts?—A. Unquestionably; the statute of limitations, as to the passage of the drafts, had barred indictment on that ground on the 18th of July, 1882.

Q. The only matter, then, to be decided, so far as the legal effect of this evidence was concerned, was as to whether the payment of the money was not indictable, as well as the passage of the drafts?—A. That was my judgment, sir.

Q. I think that was the judgment of the Attorney-General?—A. I so understood it to be.

Q. Now, will you explain why it was that with your full knowledge of this case, and with your knowledge of this indictment, you did not continue in the case until the trial?—A. For reasons I deemed sufficient.

By Mr. FYAN:

Q. I understood you to say that when the court fixed a particular day upon which this case should be called, you felt that that was not the usual course of proceeding in such cases, and I understood you to give that as your reason for withdrawing.—A. On the day the court assigned a day for the trial of this case, after the counsel for the Government, including the Attorney-General, who was present in court, had opposed the motion to fix a day, because our witnesses were not here and the Government was not ready, I deemed it expedient, for reasons which I thought ought to control me, to retire from the case.

By the CHAIRMAN:

Q. I think I have seen a letter from the Attorney-General to the effect that he acceded to your retirement for a different reason.—A. I have here the correspondence that passed between the Attorney-General and myself at that time, which I shall read:

WASHINGTON CITY, *March 31, 1884.*

SIR: I have the honor to renew the request, heretofore on two or three occasions made by me, that I may be relieved from further participation in the prosecution of the star-route cases.

The most important of those cases in which it is likely any further action will be taken by the court is the case of the United States against William Pitt Kellogg, and in this case there are conditions at present existing and others likely to arise which, in my judgment, render my retirement desirable.

With a grateful appreciation of the legal and moral support I have received from you at all times throughout the progress of these cases, and with the assurance of my high regard for you personally, I remain, with great respect, your obedient servant,
R. T. MERRICK.

HON. BENJAMIN HARRIS BREWSTER,
Attorney-General.

To that letter I received the following reply:

WASHINGTON, *April 1, 1884.*

MY DEAR SIR: In conformity with your letter dated the 31st of March, I consent to your renewed request to be relieved from further participation in the prosecution of the star-route cases. This is a proper time for you to take the step you do. Hitherto I have declined, because I saw there was a necessity for your presence. Now I do not see it, and I agree with you in the reasons you have given.

I am deeply obliged to you for your handsome allusion to myself, and I must add that the Government is in debt to you for the integrity, ability, and earnestness with which you have conducted these cases ever since I confided them to you.

I am, sir, with great respect, your obedient servant,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

HON. RICHARD T. MERRICK,
Attorney at Law, Washington.

By the CHAIRMAN:

Q. The Attorney-General says therefore "the reasons you have given;" what were these reasons?—A. They are in my letter, Mr. Chairman.

Q. I did not understand that they were.—A. Yes, sir; read my letter.

By Mr. FYAN:

Q. Did you give, orally, any other reasons than those contained in your letter?—A. There was a conversation between the Attorney-General and myself upon the subject. There was one reason which operated very strongly upon the mind of the Attorney-General, and although it was a reason affecting to some extent my sensibility, yet I did not regard it as one that would control me in the performance of a duty. That was that from the first of this Kellogg business there had been an outcry in certain quarters against me, upon the alleged ground that I was pursuing Mr. Kellogg from personal ill-will and party malice. Mr. Kellogg himself, I understood, was saying this in every possible direction; everybody, I believe, understood that the statement had been made; and I am impressed with the conviction that the Attorney-General thought that possibly my presence in the case might be ascribed to such a feeling; that I would, therefore, be open to attack from the counsel on the other side; that the jury would have heard of this thing, and that all these circumstances would tend to lessen the weight of any argument I might address to the jury, and would be calculated to place me personally in an embarrassing position.

Q. Have you had your attention called to a letter from Mr. Brewster to Mr. Bliss, printed on page 288 of our record? If not, please look at it.—A. (Looking at the letter.) I see here an expression which indicates on the part of the Attorney-General entire concurrence in what I have just stated to the committee, where he says:

Mr. Merrick will withdraw from the cases also. This is a piece of personal information that I give you. He has for some time past, by letter and orally, urged me to be permitted to withdraw. I never have intended that he would try the cases after the vehement charges made by Mr. Kellogg that Mr. Merrick was instigating the cases for malicious reasons. I thought that Mr. Merrick's own dignity of character and self-respect would forbid his taking charge of the case when he rested under such accusation from the defendant, and so Mr. Merrick thought himself.

Now, in connection with this letter of mine to the Attorney-General, I may as well say that the closing paragraph of it, which assures the Attorney-General of my appreciation of the legal and moral support that I had received from him was not a matter of form, as such things often are, even in official communications; it was a matter of substance. And, whilst I decline to express opinions generally here, there are two classes of individuals in reference to whom I think the committee have a right to an opinion from me; those are my immediate superiors and my immediate inferiors. The Attorney-General was my immediate superior. From the beginning of my relation to these cases to the end I found him to be an unfailing, firm, and resolute advocate of justice, determined, if he could accomplish it, that the ends of justice should be reached. I believe that he has never been swerved by any consideration of any kind from that line of duty. In the first trial of the Dorsey case I consulted with the Attorney-General day after day and time after time, and the instructions in that case, which are quite elaborate, were prepared by me in consultation afterwards with my brothers; I dictated them, I think, in the presence of Mr. Ker, and they were the results of repeated conferences with the Attorney-General. He kept up with the evidence, examined it, and discussed it with me from time to time and made the closing argument in the case. My immediate inferiors with whom I was brought more directly in contact than with anybody else, were Mr. Woodward, whom you have had before you, and Mr. Lyman the present Second Assistant Postmaster-General, and two more diligent, faithful, and earnest officers neither this, nor, in my judgment, any other Government ever had.

Now, in connection with this letter of resignation, I deem it proper to bring before the committee, to complete the record of that transaction, another letter which I wrote to the district attorney [reading]:

1308 F STREET, WASHINGTON CITY, *March 31, 1884,*

DEAR SIR: After mature consideration, and partly in view of what transpired in court on Saturday, I this morning addressed a letter to the Attorney-General repeating the request, that I had heretofore made of him on two or three occasions, to be relieved from further participation in the prosecution of the star-route cases.

I have determined that I will not in any event take part in the Kellogg case. I beg leave to say to you that it will give me pleasure at any time to give you any information I may have in regard to that case, and which will in any way aid you in conducting it.

The case has been carefully and thoroughly prepared, and after a most deliberate and conscientious examination of the evidence, in my judgment there cannot be a doubt as to the guilt of the accused.

Very truly, yours,

R. T. MERRICK.

A. S. WORTHINGTON, Esq.,
District Attorney.

To that letter I received the following reply:

[United States District Attorney's Office.]

WASHINGTON, D. C., April 1, 1884.

MY DEAR SIR: Your note of yesterday is just received. I also received to-day from the Attorney-General notice that you would not take further part in the Kellogg case.

I am very sorry that you have thought it best to take this course. I shall avail myself of your kind offer to give me information in regard to the case; and, for that purpose, will try to call on you at a very early day.

Yours, very truly,

A. S. WORTHINGTON,

Attorney of the United States for the District of Columbia.

Hon. R. T. MERRICK,
Washington, D. C.

That ended my connection with the star-route cases.

By the CHAIRMAN:

Q. Mr. Kerr testified to a conversation that took place between you and Mr. Bliss with regard to the question whether a prosecution should be instituted against Senator Kellogg in which Mr. Bliss stated that Mr. Kellogg had admitted to him that he had accepted or received this money, and explained the circumstances under which he had received it. Do you remember such a conversation?—A. Mr. Chairman, I regret very much that Mr. Ker has deemed it expedient to speak of what passed between counsel in their conferences. I shall not do so except where it is necessary to correct something that he has said. In those particulars in which he has spoken I suppose I am obliged to speak. There was such a conversation between Mr. Bliss and myself, and my recollection of that conversation is, that Mr. Bliss informed me that Mr. Kellogg admitted that he had received this money, but not for himself; that he had not used it for his own purposes, but that it was used for some political purpose or measure. That is my best recollection of the statement; it is possible that I may be mistaken.

Mr. BLISS. In substance you are right. I will tell you or the committee about it.

The CHAIRMAN. Is that the substance of the conversation?

Mr. BLISS. Well, yes. Mr. Kellogg called upon me with a letter from the Attorney-General desiring me to see him. He stated, in the course of the conversation, that he did have certain post-office drafts from Price, and that the transaction was this: That he made an application to Mr. Price to contribute towards political expenses, and that Mr. Price said he hadn't any money. I think Mr. Kellogg gave me the impression that he thought Mr. Price was giving that as an excuse. He said that Price said he had no money, but he had some post-office drafts, and told him that if he, Kellogg, could arrange to get them cashed he would give him a certain portion of the money. I have an indefinite recollection that the amount was named as several thousand dollars—four or five thousand, I think. He said that he took the drafts; that there was an arrangement made to get them cashed, and that he got a portion of the money; but he insisted that he had had nothing to do with the origin of the drafts, or anything of that kind, and that it was merely a way of getting from a party, who was largely concerned and interested in his own State, a political contribution.

The CHAIRMAN. You have stated that you received a letter from the Attorney-General with regard to this matter.

Mr. BLISS. I received a letter from the Attorney-General asking me to see Mr. Kellogg. Mr. Kellogg brought it to me.

Q. Was that the time when the conversation with Kellogg occurred?—A. My recollection is that this was the time. The letter is not dated, and therefore I cannot absolutely fix the date, but my impression is that that conversation was at the time I received this letter. I happen to have the letter here if you want it.

The letter was read as follows :

DEPARTMENT OF JUSTICE, *Washington*.

MY DEAR MR. BLISS : See Mr. Kellogg, and oblige your friend,

B. H. BREWSTER.

I know the signature to be Mr. Brewster's, although it is not easy to recognize it. I have no doubt that Mr. Kellogg was pursuing the Attorney-General to such an extent that he was glad to get rid of him by sending him to anybody.

The CHAIRMAN. Was that statement made by Mr. Kellogg with a view to get the counsel to suspend the prosecution?

The WITNESS. What statement do you refer to?

The CHAIRMAN. That the money was used not for his personal benefit, but for political purposes?

Mr. BLISS. Mr. Chairman are you not as competent to judge of that as I am?

Examination of Mr. MERRICK continued.

By Mr. FYAN :

Q. What were the circumstances that induced Mr. Bliss to make these declarations?—A. These declarations were made by Mr. Bliss in our intercourse as counsel in the same case.

Mr. BLISS. The fact is that I told you that as indicating what I thought would be Kellogg's defense.

The WITNESS. My impression is Mr. Bliss is correct in that statement.

Q. Did he give that as one reason why Kellogg should not be indicted?—A. Oh, no, sir. Mr. Kellogg was indicted, if I am not mistaken, at the time this conversation occurred.

Mr. BLISS. I think not.

The WITNESS. Yes; he had been indicted.

By the CHAIRMAN :

Q. My question was whether the statement was made for the purpose of determining whether he should be indicted or not, or prosecuted.—A. I think he had been indicted at the time.

Q. Was there any disposition on the part of yourself or your associate counsel to suspend proceedings or to quash the indictments in that case on the ground of this supposed defense?—A. None whatever that I know of, upon that ground.

Q. None on your part?—A. None whatever, sir.

Q. You have spoken about the co-operation which you had from the Attorney-General and Mr. Woodward and Mr. Lyman. I see in the New York Times a report of an interview purporting to have been held with you, in which this language is attributed to you:

There are some leading men who have been in sympathy with the thieves, and who have obstructed my course, and embarrassed my action, and sought to influence the administration of justice in every way, to allow the indicted scoundrels to escape. I have heard that Kellogg threatened to tell all about the transactions of 1876 in Louisiana. I do not know that he has made this threat, but I am certain that he could tell a great deal if he would that certain persons I could name would not like to hear.

State, if you please, whether leading men in official station did use any influences, so far as you know, to obstruct the administration of justice in this case?—A. Well, Mr. Chairman, that is a difficult question for me to answer. I probably said something like what is reported there. I may have said that I had my suspicions and my beliefs, but, whatever they may have been, they are hardly competent evidence; and if I had any fact I would give it to you cheerfully. No leading man ever approached me about the matter, nor any man who was not leading—no man at all that I know of ever did so. I see that Mr. Walsh has said in his testimony, somewhere, that I stated that Mr. Chandler had been to see me about this case; that he heard it from somebody who had heard it from somebody else, probably. I never said anything of the kind; never. Mr. Chandler never opened his mouth to me upon the subject. Mr. Walsh also stated in his testimony that I had said to him (Walsh) that Mr. Bliss and Mr. Kellogg had had a meeting at Mr. Chandler's house. He is altogether mistaken. I never said anything of the kind, to the best of my recollection, and I certainly never knew of anything of the kind. The air was filled with all sorts of rumors of every kind and description, which were coming to me all along, but I had no knowledge of any fact.

By Mr. STEWART:

Q. Had you any reason to believe that any official connected with the Government here in Washington cast any obstruction in the way of the prosecution of these star-route cases?—A. Well, "reason" is a very broad term. There is no *fact* within my knowledge—within my personal knowledge—which I can state to the committee that would form the basis for such a conclusion.

Q. It is an open secret, I suppose, that Mr. Kellogg was quite busy against Mr. Arthur and his administration because he was under the impression that he had been very much persecuted, and whether any of the members of the administration were trying to help him is what I am trying to find out from you, or whether you had any reason to suspect that they were doing so?—A. Well, if I knew any fact upon the subject of course I would give it to the committee, but I know of no fact.

By the CHAIRMAN:

Q. Then the statement in this interview, to the effect that leading men had been in sympathy with the thieves and had obstructed your course and embarrassed your action, was based upon rumors that came to you, and upon hearsay, which you do not regard as testimony?—A. Mr. Chairman, we lawyers all understand that we and other people, all mankind in fact, do take up impressions, and sometimes very erroneous impressions, and that when asked to give in detail on the witness-stand a reason for those impressions, it becomes extremely difficult to do so. At the time of the first trial of the Dorsey case, the atmosphere was filled with the belief that the administration did not desire the conviction of Mr. Dorsey. We all understood that. Colonel Bliss in his communications with me subsequent to that, frequently said that we would have a better atmosphere at the next trial.

Mr. BLISS. We did have.

The WITNESS. And when the next trial came on a number of individuals were removed from office, at Mr. Bliss's suggestion, who had been supposed to be in sympathy with these defendants. At the first trial, Mr. Helm, who held a position under the Public Printer, was also, as we understood, an editor of the Critic, which paper was most virulent, unpardonably virulent, in its attacks upon the court and upon the coun-

sel and witnesses for the Government. I called Mr. Bliss's attention to the matter two or three times, and told him that that man ought to be removed, and in an interview in his room one evening the discussion between us became a little excited. I told him that he as a friend of the President ought to go to the President and have the man put out. Mr. Bliss said it could not well be done, and it was not done.

Mr. BLISS. It *was* done.

The WITNESS. It was not done during the first trial. It was done just before the second.

Q. Was there any discussion between the counsel as to the propriety of removing the district attorney, Colonel Corkhill?—A. Never with me. I do not think I ever had any discussion with any of the counsel upon that subject; none that I recollect.

Q. Did you desire, as counsel for the Government, that there should be any change in that office, so as to have a district attorney more in harmony with the prosecution than Colonel Corkhill was supposed to be?—

A. Well, I can hardly answer that. All that matter had been fully settled, as I understood, when I came into the case. I think it had been a matter of controversy before the case was first brought on for trial with the counsel then in the case—before I entered it—but when I came in I accepted the situation as I found it, and that situation was this: That the district attorney was to have nothing to do with the cases, and I think he had nothing to do with them at all. I was never brought in contact with him in the conduct of the cases, and his remaining in office or his removal was never a subject of consideration with me.

Q. Colonel Bliss, and, I think, some other witnesses, have referred to the fact that in serving the processes of the court in the star-route cases you could not rely upon the United States marshals. What do you say about that?—A. My impression is that Colonel Bliss mentioned that subject to me.

Mr. BLISS. Not the marshals here, but the marshals generally.

Q. I do not mean here in the District of Columbia, I mean throughout the country.—A. Mr. Bliss did mention that subject to me. He had charge of the business of serving the processes, and, now that you have recalled the subject to my mind by mentioning the word "marshals," I will say that there was one of the officials that I did think ought to be removed. I speak of the marshal of the District of Columbia at the time of the first trial. I thought he ought to be removed during the first trial; I thought he ought to be removed because he had been openly in sympathy with the defendants, and went out West and made a publication against Mr. Bliss, assailing him in the most violent and personally abusive manner.

Mr. BLISS. That was after the trial.

The WITNESS. No; it was not. I think it was during the trial. I thought that an attempt to demoralize the counsel was certainly an attempt to demoralize the case, and, when abuse was heaped upon one of my associates, I immediately took it up; not from any particular personal feeling for them, but because I felt that it was an attack upon my case. I did it in court and out of court.

Q. Who was this marshal?—A. Mr. Henry.

Q. Was he removed on that account?—A. I do not remember what the removal was made for.

Mr. BLISS. The postmaster and the assistant postmaster here were removed also, and the postmaster, in revenge for it, subsequently got himself appointed chairman of the State convention in Michigan and insisted that no resolutions in favor of the administration should be

passed. The marshal, the foreman of the *Congressional Record*, and one other, whose name I do not remember, were removed on my written request.

The WITNESS. That was done after the first trial, and just before the second.

By the CHAIRMAN:

Q. Then you did find yourself, in the particulars you have mentioned, obstructed by persons in the service of the Government of the United States in the prosecution of this case, at least so far as the influence of public sentiment against the prosecution was concerned?—A. Public sentiment in the District of Columbia was very much influenced in some way against the prosecution from the start—the atmosphere around the court-room—and it was generally thought that the administration did not desire the conviction of Mr. Dorsey or of Mr. Kellogg. I do not know whether that was true or not true, as to their desire; but that idea was abroad in the community, and the defendants tried to impress that belief upon everybody about the court-house.

Q. That the administration was against the prosecution?—A. That the administration was against the prosecution.

By Mr. FYAN:

Q. Against the prosecution of the two individuals you have mentioned?—A. Of the two individuals I have mentioned. I fought against that impression in my closing argument in both cases, I think. I paid tribute to the administration for the earnestness with which they were prosecuting men who were so closely identified with them in political relations. I know nothing whatever about the feelings or views upon this subject of the individuals composing the administration, except the Attorney-General, for I have never talked with any of them on the subject. I think I have probably passed a remark or two with the Secretary of State, from which I was satisfied that he was earnestly in favor of attaining the ends of justice.

By Mr. STEWART:

Q. I notice that on page 456 of the record of this investigation, Mr. Walsh says that at the time of his interview with you, to which you have referred, when he told you what he knew, he puts this language into your mouth, speaking of Mr. Bliss: "He never told me of it. He has suppressed it all; and with that evidence, Mr. Walsh, the case that is now pending in court against Dorsey, Brady, and others, and which is *in extremis*, with that evidence we can achieve success." The point to which I wish to call your attention is, whether you told him that the case against Dorsey and Brady was *in extremis*?—A. I do not think I used that expression. I may have told him that the case in its then condition did not present a very favorable appearance, or something of that sort; but I used no such extreme expression as *in extremis*. As I told the committee on yesterday, when these various records were brought in and presented to the jury, it was very difficult for an ordinary mind to find in those records the bands that united the parties in the conspiracy. All that material was in the record, full and complete, but you will bear in mind that the conspiracy (which was the charge in the indictment) was a thing to be primarily established before you could prove any of the individuals to be conspirators. Whatever amount of fraud you might prove, whatever amount of ordinary criminality you might establish as to any of the respective individuals, or as to all of them, would have been unavailing

unless you could have brought them together in harmony and in concert in the perpetration of that fraud by a common effort and for a common benefit, as co-conspirators. The general impression was that the court was extremely adverse to the prosecution, upon the ground that the evidence thus far presented was not sufficient, particularly not sufficient to involve Mr. Brady. In that condition of the case I told Mr. Woodward that I must have some further proof, and I said to him, I remember distinctly, "Now is the time, and I must have it." Then it was that Mr. Walsh came forward, and I probably explained to Mr. Walsh that condition of the case. And, as I said on yesterday, when we offered Mr. Walsh upon the stand, and offered to prove by him what he subsequently testified to, an argument arose as to its admissibility, and that argument gave us an opportunity to develop fully to the jury the relations between these several parties by the records, which therefore had been a mass of confusion, and Walsh's testimony cast a light that made the bands that bound the conspirators together visible to the dimmest eye.

Q. To the unprofessional eye?—A. Yes, sir.

By the CHAIRMAN:

Q. There is one more question that I desire to ask you. Colonel Bliss testified before this committee in regard to the proposal to compromise some of these cases by an arbitration, and he said that he called upon you after the Mitchell grand jury had ignored the bills in the Parker, Salisbury, and other routes, and suggested the propriety of arbitrating those cases. Please state now what occurred between you and Colonel Bliss in regard to the matter of the arbitration of the civil suits growing out of the star-route cases.—A. The subject has been brought to my attention by one or two inquiries of late and by Colonel Bliss's testimony, and I have endeavored to recall, as well as I could, all that occurred connected with that matter. In the first place, I did not regard myself as counsel in those civil suits at all. They were matters with which I had nothing to do. In the second place, Colonel Bliss had exclusive charge of preparing the testimony in all the cases for the grand jury, as he himself has said, and of presenting that evidence to the grand jury. I remember that upon one occasion during the first trial of the Dorsey-Brady case after the adjournment of the court when Colonel Bliss and I were walking down from the court-house to the Post-Office Department (I think he had just come from the grand jury), he said to me: "In these Salisbury and Parker cases the grand jury will not indict, and I have a proposition from Mr. Ingersoll to submit"—not to arbitrate, but to *submit* the cases—"to submit the liability of these parties to the Government for money due to Mr. Elmer, the Second Assistant Postmaster-General (I think it was), Mr. Ingersoll, and myself." I replied, if I recollect aright, "That is a very good tribunal for the Government, and if the grand jury are not going to indict, it would be very well to obtain if possible a few hundred thousand dollars, for it will be something in case we fail to convict." "Well," said he, "they are not going to indict," and my impression is that he said that the evidence in the criminal cases was very weak. I knew nothing about the cases at all.

Q. Was the grand jury still in session?—A. The grand jury was in session. That is my decided impression, for the conversation was as to the future, as to what they would do. I see that Colonel Bliss has stated in his testimony that he came to see me afterwards upon the sub-

ject, and that we consulted and looked up authorities. I think Colonel Bliss must be mistaken.

Mr. BLISS. I don't think I said that we looked up authorities.

The WITNESS. That is the way I read your testimony.

Mr. BLISS. Well, I am very sure that we did not.

The WITNESS. Let me see what was said [referring to the testimony of Mr. Bliss on this point]. I see that Colonel Bliss also said in his testimony, pages 200 and 201, that in the Salisbury cases no sufficient papers were on file. I think that in this interview, to which I have referred as taking place when we were walking from the court-house, or at his room, Colonel Bliss stated to me that the difficulty in those cases was that the contracts were not taken in the names of the parties who were really guilty, but were taken in the names of some of their subordinates, and that there would be difficulty in showing the real beneficiaries of the contracts or the real parties in interest, the contracts having been thus taken in the names of nominal parties. He has stated here, as I have just said, that he came to my house and consulted with me upon the subject, and, as I recollect his statement, that we examined some authorities. I do not recollect any occasion when Colonel Bliss came to my house at night, or in the day either, and consulted with me upon that subject, or when we discussed it together. I think he must have been mistaken about that; he must have been thinking of some one else with whom he talked upon the subject, for I am positive he did not come to my house and consult with me about it.

Q. Was there anything said at the interview to the effect that one grand jury had ignored the bill?—A. I do not think there was, at that interview. But he subsequently informed me that one grand jury had ignored the bill. And, in view of the fact that the grand jury had failed to indict, and of what I learned from him of the case, believing that he had done his full duty in presenting it to the grand jury and had used all the evidence he could command—and have no reason to believe to the contrary—I thought the submission of the case to such a tribunal was a judicious thing, and I was afterwards extremely anxious, when we did fail to convict, that it might be carried out. Had I consulted with Colonel Bliss afterwards upon the subject I should have suggested to him what was quite familiar to me, the proper way of carrying the submission out. Mr. Ker, I believe, has said in his testimony that it could not be done, but there was an easy way of doing it. They had only to draw up an agreement that the case should be submitted to those three people; then let the defendants go into court in a suit and have an order of court under the Maryland statute (which is in force in this District), referring the case to those three men. Then their award would stand on the record of the court as a judgment. That is not an arbitration; it is a submission, under the rule of the court.

Q. But that is not what was done in this case?—A. I do not know what was done. That is the way it could have been carried out. I also, however, suggested to Colonel Bliss that he had better get a bond, and I was anxious that everything should be done to comply with whatever the court would require.

By Mr. FYAN:

Q. You were not consulted as counsel in reference to that matter?—A. I had no relation to the civil cases whatever, as Colonel Bliss is perfectly aware.

By the CHAIRMAN:

Q. Are you certain that when this matter of arbitration was first

broached the cases were still pending before the grand jury?—A. I do not know, Mr. Chairman, what was before the grand jury. I can only tell you what Mr. Bliss said to me, to the best of my recollection.

Q. Did he say that the grand jury would not indict or had not indicted?—A. He said, "The grand jury are not going to indict," or "will not indict"—I think his expression was "are not going to indict." I suppose that he had come to that conclusion from being with the grand jury and seeing them. He knew what they were doing, and he could have judged what they were going to do.

Mr. BLISS. I had notice from them that they were not going to indict. They were still in session. On referring to my testimony I find that I did say that we consulted authorities on the subject at Mr. Merrick's house. I think I was wrong in that. I do not think we did consult any authorities there.

The WITNESS. You were wrong in saying that you came there to consult about it. I certainly never saw the paper which is called the arbitration paper.

Mr. BLISS. Oh, no; you never saw it, of course.

The WITNESS. Well, if we had consulted about the matter I certainly should have seen it.

Mr. BLISS. It had not been drafted at that time.

The WITNESS. Well, if we had consulted about it, it would have been drafted before we separated.

By the CHAIRMAN:

Q. Did Colonel Bliss suggest to you at any interview that the grand jury had already ignored those bills, and that the attorneys for the accused had not yet learned that fact, and that therefore before they learned it would be a good time to procure an agreement from them to submit the matter to arbitration?—A. Your question, Mr. Chairman, supposes an interview after the ignoring of the bills.

Q. Yes.—A. I have already said that I do not recollect any interview after that. I think that in this same interview which we had while casually walking down he did make the suggestion, "They are not going to indict, and I had better close it up before the other side know what has transpired."

Q. Was that the only interview at which conversation was had between you with regard to the proposed arbitration?—A. That is the only interview that I can recollect in reference to the arbitration and its organization. We had some conversations afterward about its not being proceeded under, and Mr. Bliss complained of the negligence of the Department of Justice, or the Post-Office Department, in not proceeding to do something; but it was a matter that I was not interested in at all, for I was not counsel in those cases.

Q. In the conversation that occurred upon the street as you and he were walking along, did Colonel Bliss leave the impression upon your mind that he was disappointed at the action of the grand jury, or that the evidence was so weak that it would not have justified them in finding an indictment?—A. Mr. Chairman, I have given you the fact as fully as I can recollect it; now, do not ask me for impressions; it would be very difficult to give them to you.

Q. Did he say that he was surprised that the grand jury would not indict?—A. No; he expressed no surprise, as I recollect the conversation.

By Mr. FVAN:

Q. He did say, though, that it was a weak case?—A. He said that the

testimony was very weak, or insufficient, or something of that kind—pretty much as he has testified here.

By the CHAIRMAN:

Q. Colonel Bliss was asked with regard to the Ottman case. What advice did you give, if any, as to the manner in which that case might be settled by the Government? Do you remember having had an interview with him about that?—A. What does the Colonel say about that?

Q. He says, I think, that he called upon you among others, and had some conversation with you. Do you remember that?—A. The fact is this: Colonel Bliss did speak to me about that case, and I remember the occasion and the place. It was in a parlor at the Arlington. He had the papers before him, and he said that he had that case to settle, or do something with, and asked me what I thought about it. I told him that I had been counsel for Ottman, and of course I could not say anything about it; but I did not think the Government would ever convict Ottman.

Q. Did you state anything about whether any part of the money should be returned?—A. Oh, no; not a word.

Q. Was there any statement made to the effect that the money could be recovered by the Government?—A. I do not think I had anything to say about that, at all. I do not recollect what the Colonel has stated about it, but I do not think I said anything on that subject.

Mr. BLISS. I do not remember my testimony about that; I remember my report. I remember that I said there, "Mr. Merrick says that Ottman cannot be convicted," or something of that kind, and then something to the effect that I thought that he thought the money was the money of the Government, but that he had not said anything about that.

The WITNESS. Of course I would not have said anything upon that subject, Mr. Chairman, either here or anywhere else, because I had been Ottman's counsel.

By Mr. STEWART:

Q. On page 479, Mr. Walsh in his testimony, alluding to you (Mr. Merrick), says: "I regret very much that Mr. Merrick's memory is so defective." That was apropos to the statement that you had said to him, Walsh, that Mr. Bliss and Mr. Kellogg had met him at Mr. Chandler's house, and Walsh says "he did say that Mr. Bliss had betrayed the interests of the Government." You have read the testimony of Mr. Walsh on that point; please state whether you said anything of that kind.—A. My recollection is not very distinct of what may have passed in my first interview with Walsh at the Arlington, when he disclosed to me the evidence which he said he had given before the grand jury in reference to Kellogg; that is, my recollection is not very distinct as to the expressions that may have been used. I was quite surprised that I had never learned from my associate of that evidence, supposing it to have been given to the grand jury as Walsh told it to me, and in the conversation with him I accepted his statement as entirely true. It is possible, therefore, that I may have used such an expression; but if I did, it was used in this way: "If that is the case, Mr. Walsh, if your grievance is correctly stated by you, if you did say all this to the grand jury, and Mr. Bliss did not act upon it, then he certainly has betrayed the interests of the Government." If I made any such statement, it was to that effect. I do not mean to say that I did say so; but, if I did use those expressions, it was most likely in that connection.

Mr. Ker, in his statement, page 528, discusses with considerable freedom what transpired between counsel, which I thought was not evidence, and I think so still; but at the bottom of the page he says this:

Mr. Merrick was very much excited, and he said, "Are you going up?"—meaning up toward the hotel. I said, "Yes." I walked with him out through the corridor, and he said to me in a very excited manner, "What do you suppose that man wants?" I said, "Who?" He said, "Bliss." I said, "I don't know; what does he want?" "Well," said he, "he wants me to let Dorsey go." Said I, "What does he mean by that?" "Why," said Mr. Merrick, "he wants to let Dorsey escape. He says he can convict the rest, but to let Dorsey go." I said that probably Colonel Bliss had only thrown that out as a suggestion as to what would be expedient. "No," said Mr. Merrick, "he means it."

What is your recollection as to any such conversation as that having taken place?—A. I do not recollect any such conversation; and I will add that I am very confident that no such conversation as Mr. Ker there states, or as is reported there, ever took place between him and me. I may have said to him (for our relation was quite close, and I had told him that if he went out of the case I would go too), "I want you in the case." I wanted him not, as he put it, for the purpose of watching Bliss, but I wanted him in the case because I thought he was useful, and I wanted him in it because I thought it was possible that an issue might arise, as it ultimately did arise between Mr. Bliss and myself, and in such a contingency I did not want to stand alone, and I knew that Mr. Ker would in all probability go with me, as he did in the Kellogg transaction. Our intercourse was free, our conversations were free, and criticisms were passed in the confidence of that relation. Mr. Ker himself, I think, desires to correct the statement as it stands in your record, and if he will take it in his hand now and make the correction, he and I may not differ very widely about the conversation, although I regret exceedingly that these private interviews have been brought to public notice.

Mr. KER. (Referring to the record.) There is a slight inaccuracy in the statement of the conversation, and the way it should be corrected is this: From the statement "He wants me to let Dorsey go," the word "me" should be stricken out and the word "wants" is to be inserted after "but," so that the statement will read, "Why, said Mr. Merrick, he wants to let Dorsey escape; he says we can convict the rest, but wants to let Dorsey go." With that change I stand by the record.

Mr. STEWART. I do not see that that varies the statement much.

The WITNESS. Yes, sir; it varies it a good deal. Now, it is possible that some such conversation may have taken place, and I am not prepared to deny that some such conversation did take place. By "some such conversation" I mean this: Mr. Bliss and I were in consultation almost every day as to what was transpiring, and as to the progress of the case, and he remarked to me on one or two occasions that if we had Dorsey out of the case we could easily convict the rest. Now, in excuse for that expression of opinion by him, or in justification of it, I will say that a good deal of the testimony that was bearing directly upon Dorsey was ruled out by the court, and it may have been that on one occasion I did say to Mr. Ker, "Mr. Bliss wants to let Dorsey go," or "wants Dorsey out of the case," because, as I have said, this suggestion or remark that if Dorsey were out we could easily convict the rest was made to me by Mr. Bliss two or three times, probably. I had my own impressions, and had my own opinions. I knew that Mr. Bliss bore very intimate and close political, and I thought personal, relations to Mr. Dorsey—I do not know that they were personal, but very intimate political relations, as he has testified here to himself. My mind

was excited also by various rumors, which I will not repeat, but which, whether they were correct or not, necessarily produced some impression. Whatever impression they were calculated to produce adverse to my associates I endeavored to fight off, for the reason that I was warned by Mr. Woodward that there was a systematic attempt on the part of the defendants to produce disturbance and discord among the counsel for the Government, and that attempt I believe took the direction principally of an effort to create in me distrust for my associates. As this matter has been opened up, I must be frank with the committee and say that, whilst I did not believe that Mr. Bliss would be delinquent in the performance of his duty at all, at the time of the interview of which I am speaking—and by that I do not mean to exclude other times, or to say that I held a contrary belief at other times—whilst I did not believe that Mr. Bliss would be delinquent in his duty, yet I believed that in his heart he did desire that Dorsey might not be convicted. That desire may have been the desire of an honest man determined to perform his full duty; yet, whilst he did perform it, still wishing that the result might not be achieved, though he put forth every effort to achieve it. I know of no testimony in relation to Dorsey that Mr. Bliss could have brought forward. I know of nothing that Mr. Bliss did in the trial, no affirmative act that he did, to protect Dorsey. He made no proposition to me that Dorsey should be allowed to escape. It is true that when the trial came to a close, and when we were in the midst of the argument, Mr. Bliss, possibly by inadvertence, in his closing argument omitted Dorsey. That was adverted to by the counsel on the other side, and, as you will see from my argument, I said, speaking of the conspirators:

We will bring you together in 1877. S. W. Dorsey, of whom my learned brother was so fond of speaking as Senator Dorsey, was there at the council board, the presiding genius of the robber band, using these lower and lesser men for his own ends, as he was obliged to use somebody, because he wore the robe of office which he could not soil without danger in the open field. He had to use other means. His pockets were open, but other hands were to be thrust into the public purse. I will not call him Senator Dorsey. He is not a Senator. He is an ex-Senator. I do not choose to use that dignified term of designation, applicable to one of the highest offices in my Government, in speaking of a man standing in the criminal dock of a criminal court. And, if Mr. Bliss did not speak of S. W. Dorsey, I will, and I will track him and follow him, and I will show you who his companions were, and who his company was, and where they met and what they did.

Q. Was that at the first trial?—A. This was at the first trial. At the same time an unfortunate incident transpired that has been developed here in the evidence. By an error of some sort, possibly whilst I was on my feet making my argument, an interview was published in a Canada paper in which Mr. Bliss was represented as saying that the testimony against Dorsey was very weak.

The CHAIRMAN. That is what the interview said.

Mr. BLISS. I think not. I think the statement attributed to him in the interview was that the case against Dorsey was not so strong as that against somebody else.

The WITNESS. The part of my argument which I have quoted appears on page 2793 of the record of the first trial. My argument closed on the 28th of August. On the 24th of August, the following had appeared in the New York Herald, as I am informed, as an account of an interview with Mr. Bliss:

Dropping politics, the conversation glided to the star-route trials, and Colonel Bliss was asked what he thought of Colonel Bob Ingersoll's claim that the Government had no case.

"Mr. Ingersoll, I think," he replied, "will find out before the trials are over that

the cases contained a good deal of meat for the Government. The one against Mr. Dorsey, defended by the brilliant colonel, is admitted to be the weakest of the lot, but in all the others a verdict for the prosecution is confidently looked for, and even that may be decided in the same way."

Subsequently, on the 26th of August, according to Ker's statement here, that interview was corrected as follows:

To the Editor of the Herald:

I have not at hand the Herald containing the interview with me, but your editorial of to-day indicates either that you misapprehend its purport or your reporter has failed to report me accurately. I have never by word or thought questioned ex-Senator Dorsey's prominence in the route conspiracy. I have only said that, owing to the exclusion of testimony by the court, the case proved was not as strong against Dorsey as against others.

GEORGE BLISS.

These publications were called to my attention at the time, and to the attention of the Attorney-General. I regretted them very much indeed and they reflected back in my mind upon the impressions that I had previously had; for in my judgment was, on the first case as well as in the last, although there was some evidence against Dorsey which was excluded by the court, that the testimony against Dorsey which was in the case was as strong, or stronger, than that against any other of the defendants; and, as a taunt had been thrown out by the counsel on the other side that my associate had not made mention of Dorsey's name, I made Stephen W. Dorsey the subject-matter of my argument, and claimed then, as I have just shown you from the extract I have read, as I have claimed throughout, and as I now believe the fact to be, that he was the originator and the center of the scheme, its inspiring genius, and its master and teacher.

Mr. BLISS. Did not I in my opening describe Dorsey just in that way?

The WITNESS. I think that in Colonel Bliss's opening statement to the jury he did describe Dorsey in the same way. In that opening statement he said, if I mistake not, that he regarded Dorsey as the center of the conspiracy. That was before the evidence was taken. I only say that there was a taunt thrown out against me, or against the case, because Colonel Bliss had not mentioned Dorsey when he came to sum up before the jury. The Attorney-General was very much disturbed about the publication of this interview, and about the condition of things generally in reference to the Dorsey case, and he immediately went to work to prepare himself to make a statement of the specific instances in which Stephen W. Dorsey appeared in the star-route transactions, and I think the Attorney-General's argument collected together seventy or eighty or ninety separate occasions in which Dorsey's name was mentioned in the evidence in the case. The Attorney-General and I discussed the subject fully between ourselves, and discussed also this interview with Mr. Bliss, Mr. Bliss's relations to the transaction, and the question of the arguments that ought to be made to meet the exigency that had arisen; and Mr. Ker is wrong in saying that except for the Attorney-General's closing speech the case would have gone to the jury without their knowing anything about Stephen W. Dorsey from the arguments, because my speech was made before the Attorney-General's, and if, when next Lent comes around, you gentlemen want to do some penitential service, and will undertake to read that speech, you will see that when I got through the jury knew pretty well all there was about Dorsey.

Before I conclude, as I suppose there are no other questions which

you gentlemen wish to ask me, allow me to say a single word in relation to the letter which I addressed the Attorney-General, withdrawing from the case, and in which I said: "The most important of these cases in which it is likely any further action will be taken by the Government is the case of the United States against William Pitt Kellogg." There are a number of indictments still pending. There are indictments against parties in what are called the straw-bond cases, indictments against parties for perjury, and for one thing and another of an insignificant character. As to the straw-bond cases, allow me to say that, as far as I have been able to learn, the Government sustained no actual loss by those bonds, except, possibly, in the case of Boone, and that loss, I think, was made up by deductions, and Boone was accepted as a Government witness, and is entitled to immunity as to the indictments pending against him.

Mr. BLISS. They have been *nolled*.

The WITNESS. Yes; they have been *nolled*. Colonel Bliss suggested to me in one or two communications during the past winter that we should look up those cases and be prepared to do our duty in trying them, but I told him that I did not agree with him. I had also a conference with the Attorney-General, in which I told him that I did not think it was worth while for special counsel, at a large compensation, to be trying cases of that character—cases which were within a narrow compass—and which could well be tried by the district attorney, and that I thought he had better turn them over to the district attorney, or, for the present at least, let them alone. After having used my best endeavors, and failed, to secure the ends of justice against great criminals, I did not choose to come down to the business of searching for mousing owls.

Mr. FYAN. There was a question which Mr. Merrick declined to answer yesterday, and upon which it is desirable that the committee should make some kind of ruling. Mr. Merrick was asked whether, when Mr. Bosler was here under a subpoena *duces tecum*, anybody approached him (Merrick) for the purpose of having Bosler discharged, and he answered that somebody did, but refused to give the name. I believe I am correct in that statement, Mr. Merrick?

The WITNESS. Yes; in substance you are. I stated what had transpired in the interview with that gentleman. I said that it was a matter of no earthly importance to anybody in the world, and contained no substance whatever except what I then stated.

Mr. FYAN. Its importance might depend upon whether that party wanted to get Mr. Bosler away from here in order to deprive you of certain information which Mr. Bosler could give you. If that was the object, then it might be of some significance.

The WITNESS. Oh, I did not understand that there was any such purpose or design whatever. Mr. Bosler was here on subpoena, and thought he was unreasonably detained, and Mr. Bosler did not desire to have the private records in his books exposed to public view. The object was to guard against a possible obtrusion into his private records, and I assured the gentleman that no private records should be interfered with in any way, and that all I wanted of Mr. Bosler was those papers. That was all there was of it.

The CHAIRMAN. In reference to the point raised by Judge Fyan, he has suggested that the question whether you should be required to give the name shall be considered by the committee in executive session. The committee will, therefore, consider the question, and, if they deter-

mine that you ought to give the name, we will inform you of that fact and ask you to do so.

The WITNESS. I have already stated that there was nothing said in the interview which indicated any desire to deprive the court of any legitimate testimony that Mr. Bosler might be able to give, nor was there anything from which I could draw that inference.

By the CHAIRMAN:

Q. Did Colonel Bliss object to Mr. Ker going before the grand jury in the Kellogg case?—A. He did not. I do not think that Colonel Bliss was aware of the fact at the time Mr. Ker did go.

Mr. BLISS. Yes; I was.

The WITNESS. Well, I never said anything to Mr. Bliss upon the subject.

Q. Did Colonel Bliss, after the indictment of Kellogg, interfere to prevent the prosecution of the case?—A. So far as I know, he did not.

Q. Did he not go into court, and earnestly take part in some of the motions after the indictment was found?—A. He did.

Mr. BLISS. Mr. Chairman, I desire to make some reply to testimony that has been given here since I testified. There have been certain new statements introduced here affecting me, and the arrangement—I use the word designedly—the *arrangement* by which, early in the session, it was determined that an attempt should be made to unload upon me has been developed a little more. I propose to meet it. I propose to put in my own statements. I propose to put in some letters which people seem to have forgotten.

The WITNESS. I did not hear what Colonel Bliss has just said.

Mr. BLISS. There was nothing in what I said that referred to Mr. Merrick at all. I have no fault to find with the way in which Mr. Merrick has given his testimony.

The chairman informed Mr. Bliss that the committee would be prepared to hear him on Wednesday next, June 18.

During a break in the examination of Mr. Merrick, Mr. Bliss, under the impression that the examination had closed, made the following statement:

Mr. BLISS. As Mr. Ker and Mr. Merrick are both here, there is one thing that I want to call their attention to. On page 530 of this record Mr. Ker speaks of the interview with me which appeared in the New York Herald in August, 1882, and sets it forth in his testimony. Then the editorial is given, and my correction, and then Mr. Ker says (page 532):

When Mr. Wilson got up to address the jury he proceeded with great rapidity to read to the jury Colonel Bliss's interview, which I have quoted here; and also the editorial in the Herald. Of course the Attorney-General jumped up at once and protested against that being read to the jury. Mr. Wilson argued the point to the court. Of course that is another thing which you gentlemen very well understand, that when the court stops a lawyer who is offering something that ought not to go to the jury, the lawyer can argue the matter with the court, and tell the court what it was that he was going to tell the jury, so that the jury will get the benefit of it just as much as if he were talking to them. In this case Mr. Wilson said in a very innocent way, "I only wanted to show that Colonel Bliss, one of the Government counsel, does not believe that Mr. Dorsey is guilty, and for that purpose I was reading from this interview with him in the New York Herald." That made the Attorney-General very angry, and he protested against either the reading of the interview or any argument or statement about it, and the court decided that Mr. Wilson could not be allowed to argue that question before the jury.

That is Mr. Ker's testimony, and now I want you gentlemen to see what the record shows on this point. I read from the record of the star-route trial, page 2884. Mr. Wilson there says:

My brother Merrick had a great deal to say about the newspapers, and he has told you a great deal about what the newspapers have said and are saying in regard to this case. Well, the newspapers, it happens, saw this very wide difference that existed between Mr. Merrick and Mr. Bliss upon this subject, and one of them went so far as to say that they were going to watch and see whether the learned Attorney-General was going to side with Bliss in saying that this was not much of a sprinkle so far as Dorsey was concerned, or whether he was going to side with Merrick and say that it was a flood so far as Dorsey was concerned. And that brought out this [taking up a newspaper slip]: "To the Alexandria——"

The ATTORNEY-GENERAL (interposing). Wait, wait. Is that proper, your honor?

The COURT. No.

Mr. WILSON. Never mind; I will pass it over. I thought that as so much liberty had been taken as to what the press had said that it would not be out of place for me to follow in the footsteps of my illustrious predecessors.

That is the record, as contrasted with the testimony of Mr. Ker here. Let me say, further, that I have been to the original stenographer's minutes, and I find that those minutes bear out the record fully; so that the statement made by Mr. Ker here is entirely manufactured; and, further, I am authorized by Judge Wylie to say that it is so.

Adjourned.

WASHINGTON, *June 17, 1884.*

HOWARD KEYWORTH sworn and examined.

By the CHAIRMAN:

Question. State your age, residence, and occupation.—Answer. I am forty years of age; I was born in Washington, and I reside here; I am at present in the grocery and liquor business.

Q. Were you at any time foreman of the grand jury in the city of Washington?—A. I was the clerk of one.

Q. What jury was that?—A. The one of which Mr. Mitchell was the foreman.

Q. Did you keep the records of that jury?—A. I did, sir.

Q. When did that jury assemble?—A. We met in June and were discharged until October, but we were called together again before that for a particular case.

Q. When were you called together for that particular case?—A. That I do not remember exactly; I think some time in June, 1882.

Q. What was the particular case that was investigated by that grand jury at that special session?—A. The Kellogg case.

Q. Did Mr. Bliss appear before that grand jury as district attorney on behalf of the United States?—A. Yes, sir; he was.

Q. Was there any presentment found by the grand jury at that special session?—A. There was not.

Q. Did the jury consider the case of the United States against William Pitt Kellogg?

By Mr. VAN ALSTYNE:

Q. You took evidence in the case, did you not?—A. Yes, sir.

By the CHAIRMAN:

Q. Was Mr. Walsh before that jury?—A. He was.

Q. State whether Mr. Bliss made representations to the jury with regard to obtaining the attendance of James B. Price as a witness for the

Government in that case; and, if so, what were those representations?—A. (After a pause.) I do not want to violate my obligations before the grand jury.

Q. I will read you what Mr. Hutchinson, the foreman of the grand jury, testified to here. The secrecy has been removed from this matter by the foreman and by the district attorney himself, and also by Mr. Merrick.—A. I don't know that would cover my obligation.

By Mr. VAN ALSTYNE:

Q. Do you think you should have conscientious scruples about telling what happened there if it serves the ends of justice?—A. I have no conscientious scruples about telling anything that happened there beyond the obligation of my oath. I took an oath not to divulge the secrets of the grand jury, and I consider that binding upon me.

Q. You were instructed simply that you were to keep your counsel and the counsel of your fellows?—A. Yes, sir.

Q. Did he explain to you the reason for keeping that secret?—A. He did not.

Q. Did he say anything about the possibility of the accused escaping if he was not under arrest, or about subjecting the members of the grand jury to unpleasant criticisms or violence on the part of persons accused?—A. I do not remember that he did. I do not remember anything of that kind. I do not remember whether it was the judge or the district attorney that enjoined secrecy upon us.

Mr. FYAN. It was a part of your oath to keep those secrets, but the obligation of that oath is released when you come here to testify. Mr. Hutchinson took counsel on the subject, and then came back and testified, and Mr. Bliss, the district attorney, has testified.

By Mr. VAN ALSTYNE:

Q. You know, as a matter of fact, do you not, from what you have seen in the newspapers, that these gentlemen have given evidence here on this subject?—A. I saw something of Mr. Hutchinson's testimony, in which he said that Mr. Bliss had informed the grand jury that Mr. Price would be there; that was my understanding too.

Q. Mr. Walsh was examined before that grand jury, was he not?—A. He was.

Q. How long after the completion of Mr. Walsh's examination was it before you were relieved from further action in that case?—A. A day or two.

Q. Was anything said by anybody at the close of Mr. Walsh's testimony as to whether any additional witnesses would be summoned?—A. I do not remember what happened after Mr. Walsh's testimony was given. I do not remember now whether the remark with reference to Mr. Price was made before or after Mr. Walsh's testimony.

By Mr. FYAN:

Q. Did you adjourn over to wait for Mr. Price?—A. It is my recollection that we got through with the business and were dismissed.

By Mr. VAN ALSTYNE:

Q. Yes, you were dismissed after you got entirely through; but was there not an adjournment? How many cases were examined at that time?—A. I do not remember any other than this one.

By Mr. FYAN:

Q. Did Mr. Woodward, an inspector of the Post-Office Department, testify?—A. I do not remember any other witness but Mr. Walsh.

By Mr. VAN ALSTYNE:

Q. You saw a lot of papers there?—A. Yes, sir; a good many.

Q. Were they notes, and checks, and post-office drafts?—A. I did not see them, but Mr. Walsh had some papers and things there.

By Mr. FYAN:

Q. How many days were you in session?—A. I do not remember; only a day or two, though.

By Mr. VAN ALSTYNE:

Q. Did anybody say that the evidence of Mr. Walsh was not enough to warrant the finding of an indictment, together with the other evidence in the shape of papers? What did you do with the minutes that you kept during the time you were clerk of the grand jury?—A. I guess I tore them up.

Q. What for?—A. There was no further use for them. The proceedings of the grand jury are generally embodied in the return made.

Q. Did you not know that the grand juries here kept minutes—a regular record?—A. Not until we met the second time. I had no book to keep the minutes in the first session, or if I did they are in there. I know that as soon as I got the book I put the minutes down. At the first meeting we were all ignorant of the duties of the grand jury, and the first case we had was this case, and the minutes were kept on loose paper, and, there being no drawers or locks in the room, when we got through with the business I suppose I tore up the papers; I am quite certain I did.

Q. Did any other prosecuting attorney appear before you than Mr. Bliss?—A. I think Mr. Taggart was there.

Q. In connection with the Kellogg case?—A. I think he was. I am not certain that he was.

Q. Did Mr. Taggart have anything to do with that case?—A. I am not certain about Mr. Taggart being present. I get the two meetings mixed up.

Q. Is it not the fact that you were organized early in June and had a session, and that then you were called together specially afterwards?—A. We met and were called together in June, and were immediately discharged. I am satisfied that we did not do anything, but were discharged until October. Then we were called again in July.

Q. And this one case was presented for your consideration?—A. Yes, sir.

By Mr. FYAN:

Q. Did you deliberate and come to a conclusion after hearing Walsh's testimony, or were you informed that there would be another witness after him? Were you told that Mr. Price would be before you? As a matter of fact did you not adjourn over that night until the next morning on the assurance of Mr. Bliss that Mr. Price would be before you as a witness in that case?—A. I really do not remember, sir.

By Mr. VAN ALSTYNE:

Q. You haven't much recollection of what did happen, have you?—Yes; I have some recollection.

By the CHAIRMAN:

Q. Do you remember that Mr. Price's name was mentioned?—A. Yes, sir; I do remember that—that he was to be there.

By Mr. VAN ALSTYNE:

Q. Who mentioned his name?—A. Mr. Bliss.

By the CHAIRMAN:

Q. Do you remember that anything was said that indicated that Mr. Price was a material witness in the case?—A. It was my impression that he was so considered. I don't remember whether there was a remark made to that effect or not.

Q. But you got that impression?—A. Yes, sir.

Q. Do you know whether you adjourned, over night, to meet next morning, expecting Price to be present at that session, as stated by Mr. Hutchinson?—A. It is my impression now that we did adjourn to wait for this man, understanding that he was coming—that he was on his way, or would be there, or something of that kind.

Q. Who gave you that impression?—A. Mr. Bliss.

Q. Did Mr. Bliss give you any instruction as to the manner in which you should keep the records of that grand jury?—A. He did not, sir.

Q. Did he ask you to put them into a book?—A. He did not.

Q. Did he tell you that the minutes should be preserved?—A. He did not, sir. They would have been preserved if he had told me to preserve them.

Q. Then you had no instruction upon that subject, but you acted simply on your own judgment?—A. No instruction whatever. If I had, the minutes would be here to-day.

Q. But, having no instructions, and not knowing what to do, you tore them up?—A. I tore them up because I considered that they were matters belonging to the grand jury; that we had no place to keep them, and that the duty of the grand jury, so far as that case was concerned, was finished, by the report we made. When I got the book, I followed the way of my predecessor as well as I could. No notes were kept, merely a list of the witnesses, and the action of the grand jury—that a presentment was made, or that the case was ignored—one way or the other; that was the whole of the minutes in the book.

Adjourned.

WASHINGTON, D. C., *June 18, 1884.*

GEORGE BLISS again appeared as a witness.

The CHAIRMAN. Before proceeding to hear Mr. Bliss's testimony, I desire to submit a letter to be incorporated as a part of the testimony of Mr. Merrick. I have just received the letter, and I presume it had better be added to his testimony, inasmuch as it is intended to modify or enlarge it.

The letter was read, as follows:

WASHINGTON CITY, *June 16, 1884.*

DEAR SIR: I beg leave to say that in my testimony before your committee I omitted to correct specifically one or two statements made in regard to me by witnesses, though I am quite confident that the matter is covered by general averments in regard to the subject.

At page 254 I find that Mr. Bliss says, referring to routes other than the Dorsey routes, that he "went over with him [Merrick] the evidence upon these other routes."

This is erroneous. No such thing occurred. He never went over the evidence with me in any other route than the Dorsey routes. I have nothing of this evidence except what I learned from him, and that was limited to what he told me of it in the conver-

sation to which I have testified, when he spoke of the proposed submission and stated that the grand jury would not indict.

There are some other things that might be corrected, but I hardly think it necessary, in view of the fact that they are covered by my general testimony.

With great respect, your obedient servant,

R. T. MERRICK.

Hon. WM. M. SPRINGER.

The examination of Mr. BLISS was resumed.

The CHAIRMAN. The committee are now ready to hear whatever additional statement you desire to make, Mr. Bliss.

The WITNESS. Mr. Chairman, I do not know whether there went into the record on Saturday last the statement which I made here with reference to the testimony of Mr. Ker, which appears on page 530 of your record, as to the alleged attempt to get the bill of fare of the Dorsey dinner before the jury on the trial.

The CHAIRMAN. The stenographer informs me that it is in the record.

The WITNESS. Very well. In view of what the record of the trial shows on that point, the committee will see that the natural indignation of Mr. Stewart, the expression of which appears on page 532 of your record, as to the irregularity of that alleged proceeding before the court, was not called for, and that the implied reflection upon Judge Wylie, by supposing that he had allowed what Mr. Ker stated to be done, was not deserved, because in fact no such thing ever occurred as was testified to here by Mr. Ker. I have already called your attention to what the record shows on that point, and I have here the certificates of the stenographers that the record is absolutely correct in that respect, and that nothing such as is stated by Mr. Ker occurred. It is a little difficult, therefore, it seems to me, to reconcile Mr. Ker's elaborate statement, given in evidence here in great detail, with any theory that is consistent with an attempt to be accurate. We always knew, or we knew for a long while, during the trial, that it was almost impossible for Mr. Ker to be accurate as to dates, figures, or amounts. I have received a letter from Mr. Woodward, written since Mr. Ker's examination here, in which he says, "I have long known Ker to be inaccurate, perhaps from infirmity of hearing." We all knew that. There is another inaccuracy of another kind in Mr. Ker's statement here. On page 531 he says, referring to the bill of fare of the Dorsey dinner:

This bill of fare was exhibited by Mr. McSweeney to show that the President and the Attorney-General had favored Dorsey in the days of his influence. Of course Mr. McSweeney was not permitted to get the book into the case, but he made the attempt. It turned out that the book had been given to him by Mr. Bliss.

By Mr. VAN ALSTYNE:

Q. Was Mr. McSweeney counsel for one of the defendants?—A. He was one of the counsel for Dorsey, and he pulled this book, which belonged to Colonel Bliss, out of his pocket to show the jury that Colonel Bliss and these other gentlemen had attended this dinner that had been given to Dorsey.

By the CHAIRMAN:

Q. Was that in the argument of the case before the jury?—A. Yes.

By Mr. STEWART:

Q. He did not show the book to the jury, did he?—A. Yes, sir.

Q. Did he allude to it in his argument?—A. Yes. He was talking as rapidly as he could about Dorsey and about this dinner, and he just pulled out the book and showed it.

Q. That was entirely irregular, of course?—A. Yes, of course it was irregular.

and so on.

Now, as to that, the answer I have to make is that Mr. Ker is again inaccurate; that that did not occur; that the record shows that in point of fact it did not occur. There is in the record, let me say, apparently a break of a line at that point, and, as it seemed a little incomplete, I took the pains to ascertain how that came about, and I found that that was the point at which one stenographer closed and another one commenced. Therefore I went and got the certificates of both the stenographers, the one who closed at that point and the one who succeeded him, that the record is correct.

As to that Dorsey dinner bill of-fare about which so much has been said, the fact about it is precisely this—that in that conversation which always occurs between counsel on a long trial, Mr. McSweeney said to me one day, “Colonel, I am going for you; you were at that Dorsey dinner, I understand, and I am going to warm you on it,” or some such expression as that, I cannot say exactly what it was, and I made some reply, I do not recall what; but I came to the conclusion that I would, as the phrase is, “copper” that reference by making a reference to the dinner myself. So I went home and got out the Dorsey dinner bill-of-fare (which the chairman now holds in his hand) and brought it down to court with me. I showed it to the counsel on our side, and then I showed it to Mr. Jere Wilson, one of the counsel on the other side, and it was passed round, and I think all the counsel on both sides saw it. Then it was taken up and showed to the judge, and there it was.

Q. Were all the guests named in this bill of fare present at the dinner?—

A. No, sir; they were not all present by a good deal. I got the book and kept it, as I supposed, in a bag in which we had all our papers, and which was brought into court every day with the papers and taken out with them; it was the bag that had performed the same service in connection with the Guiteau trial, a bag which belonged to the district attorney. I intended to make reference to the Dorsey dinner in the commencement of my closing speech, but some doubt arose in my mind as to the propriety of doing it then, and I passed it for the time, and thought the matter over, and came to the conclusion that I would do it near the close of my speech. But my close was a somewhat hurried one, because I wanted to catch the train. I think it was on Friday afternoon, and I was very desirous of catching the afternoon train, because I had just learned that my wife was very ill and that it was supposed that that she would not live a week. The knowledge of her condition had been kept from me until I got through my speech, or till they supposed I was through. They then informed me of it, and I closed very hurriedly, and did not make any reference to the Dorsey dinner. I went off and left that bill-of-fare here with the other papers. I don't know how it got into Mr. McSweeney's hands; I never gave it to him; I had nothing to do with his possession of it; it was not produced before the jury; I was hundreds of miles away when it was referred to, and when this transaction is alleged to have occurred, and there is no excuse for the insinuation made here by Mr. Ker that I gave the book to Mr. McSweeney. Mr. Ker first made the square statement that I had done so, and then toned it down into an insinuation to the same effect. All I have to say about it is that the book was here, and Mr. Ker was here, and that he is much more likely to have given it to Mr. McSweeney than I am, because he was on much more intimate terms with Mr. McSweeney than I was. I do not say that he did give Mr. McSweeney the book; I do not know how it got into Mr. McSweeney's hands; but I know that I had nothing to do with the matter.

Now, as to this alleged interview with me at Alexandria Bay, I never

knew that I was being interviewed there. I did learn, however, that the son of a friend of mine, whom I remember to have met at Alexandria Bay, had talked with me about State politics, and probably there was something said about the star-route cases, and the "interview" was published, and it represented me as saying, "The one against Mr. Dorsey is admitted to be the weakest of the lot." That is the form of the statement as published in the interview. In fact, however, I never said anything of that kind; never thought anything of that kind in any manner. If it is thought necessary to produce any evidence on the question of fact as to whether the case against Dorsey was the weakest case, I think you can take Mr. Merrick's testimony upon that point. When I heard of this alleged interview, I telegraphed a dispatch to the Herald. I had then learned who had given the interview for publication, and I was disposed to be as mild with him as I could, but in my dispatch to the Herald I said:

I have never by word or thought questioned ex-Senator Dorsey's prominence in the route conspiracy. I have only said that, owing to the exclusion of testimony by the court, the case proved was not as strong against Dorsey as against others.

That undoubtedly was to a considerable extent the fact.

By Mr. FYAN:

Q. Who was this person who published the interview with you?—A. The son of Lieutenant-Governor Alvord, of New York.

By Mr. VAN ALSTYNE:

Q. When did you bring that bill of fare here?—A. O, I brought that bill of fare here at least a month before the case closed.

Q. Was it after you had the conversation with Mr. McSweeney?—A. Yes, sir.

Q. Not before?—A. No, sir; not before. He spoke of it in the way I have stated. This matter of the dinner and the bill of fare had been published, had been referred to in the newspapers, and had been commented upon in the Critic here from time to time, so that there was no secrecy about it at all.

By the CHAIRMAN:

Q. Was there any reference made to the fact that Kellogg was present at that dinner?—A. No, sir; and I do not think he was.

Q. I see his name on the list of guests.—A. Yes; his name is there, and so is the name of Senator Edmunds, and *he* certainly did not attend. That is a list, not of those who attended, but of those who were invited. A great many people were there who do not want to own up to it now; but I do not think Mr. Kellogg was at the dinner.

Q. Was Mr. Blaine there? I see his name on the list.—A. I think not.

Q. Was Mr. Logan?—A. I cannot tell you that, any more than I can tell you whether the future Democratic candidates for President and Vice-President were there.

Q. Their names are not on the list?—A. Their names were not on the list, and I have no doubt they regretted it.

Now, on page 534 of your record, Mr. Ker goes into the question of his dealing with witnesses and his getting witnesses here, and the general idea he seeks to convey is that he brought here on the second trial a good many new witnesses, and also that he drew from the old witnesses a good deal of additional information. As to that, let me say

that on the 25th of September Mr. Brewster, not having then acted upon my request to be allowed to withdraw from the star-route case before the second trial, wrote me in response to a letter I had written him urging that he should act upon that question, as the preparation for the second trial ought to be made, and I have here his letter, written from Newport :

NEWPORT, N. J., *September 25, 1882.*

MY DEAR BLISS: Your note was handed to me at Albany by Mr. Sheppard.

In it you say that preparation should begin in order for the December trial. Pray get that on foot by giving proper directions to Mr. Ker or to some other person who can begin such preparation as is required. You know whom to direct. *I do not.* So do not let the case suffer for want of our preparation.

I would not on any account have us miss a trial in December. It will give great public dissatisfaction. As you may be occupied and unable to start and direct things for preparation, please to direct it to be done as soon as you think proper. I may not be in Washington for a month; I am worked out and need rest, and then, too, my own affairs, political, professional, and personal, in Pennsylvania, will require me to be in Philadelphia at least all of October.

I will be here for a week yet.

I am, truly, your friend, as ever,

BENJAMIN HARRIS BREWSTER.

Colonel GEORGE BLISS,
New York.

On the 24th of October I received a letter from Mr. Ker from Washington, as follows :

MY DEAR COLONEL: The Attorney-General sent for me to come back here and assist in the bribery cases. I returned yesterday, but my assistance so far consists in looking on and waiting patiently.

I have been looking everywhere for the list of witnesses you were to leave for me. I have reached the conclusion that you took it along with you. Whenever you are ready send the list to me with the proper instructions and I will attend to it. You can send it either to the Ebbitt House or to the Department.

On the 25th of October I wrote to Mr. Ker as follows :

OCTOBER 25, 1882.

DEAR KER: I inclose you the list of witnesses. Those with an X are to be subpoenaed; those with an O definitely omitted. Post-office clerks, I presume, will not need subpoenas.

My idea would be to summon the witnesses on routes 34149, 38134, 38135, 38140, 38145, 38152, and 38156, for opening of the trial; on routes 35015, 35051, 38113, 40104, 41119, for about December 15, and rest for about December 20. As for mode of service I would to all the Colorado routes, except 38113, use James M. Semple, of Rico—

Mr. Semple, I think, must be the young lawyer Mr. Ker says he employed to get witnesses and whose name he did not care to give. If there was any other young lawyer employed I had no knowledge of it. Mr. Semple did the business and did it very well—

Ouray county, Colo., who served them before. On 38113, and 41119 Colonel Parker can doubtless arrange service for us. So in 46132 and 46247. On 35051 I would send to J. Pennell. On 34149 Grimes, the postmaster, who is himself a witness, will doubtless attend to it. So on 35015, Shaw. On 38145 Semple to serve. On 40104 Krider is a postmaster; came before on telegram and would doubtless do so again. It would be well if he could bring another witness familiar with geography, &c., with him. If there is any trouble about Krider, Tidball, the marshal, can arrange service. On the Oregon route B. B. Tuttle, who is post-office officer at Portland, served many before. Inspector Sharp in Washington knows about it. My idea would be to send all to Tuttle and authorize him to employ Fisk on 44155, McBean on 44160, if necessary, either one or both. Were there other Oregon routes? Haycock and Clendenning and Clayton, Colonel Parker can doubtless arrange for. Spencer I hope to have under arrest before trial.

Now as to funds, I don't mean to go into the business of advancing again to any extent. By President's order money should be advanced to the marshals at San Francisco, Portland, and Bismarck, and whoever serves the witnesses in these regions

should be able to get from them the amounts necessary to advance to the witnesses. It appears that the post-office inspectors are bonded officers. Mulliken can tell you if there is any difficulty in advancing money to them. If there is not, Tuttle, at Portland, could receive the advance instead of the marshal, and the post-office inspector who goes to the California routes could receive the money instead of the marshal at San Francisco; and the inspector who goes to Utah and to 38113—I presume from Saint Louis—could receive the advance; otherwise the marshal at Saint Louis. Semple I “staked” before, and must probably do it again. The witnesses on 34149 and 35015 will probably need no advances, but if they do, it will easily be arranged. Krider will need no advance.

I will to-day write the Attorney-General about these money matters, and refer him to you.

I would send to Pennell some blank subpoenas, to be used in his discretion; also to Tuttle and to Semple. I would invite suggestions of other witnesses from French and Shaw.

As for witnesses not in the list, I remember that on 38156 some criticism was made because we had only three who drove in the summer, but Steinegger will probably cover that. On 38134 we tried to find Eli Hanson but failed. He had come East. My impression is we did not need him; he was the paid subcontractor. On 38135 one Ames was sought; he was a telegraph operator on Union Pacific Railroad. One of Semple's letters on file with Moore shows where. I have an impression it would be well to have him.

I left at the Arlington, addressed to you, a bundle containing the subpoenas and a copy of the record. There is another bundle of the record left there for Sloan last summer which he has not called for. Send for both.

I wrote the Attorney-General yesterday my views as to going out of the case.

Yours, truly,

GEORGE BLISS.

W. W. KER, Esq.

That contained a list of the witnesses. Mr. Ker, on page 537, makes a very incorrect statement as to the comparative number of witnesses on the first and on the second trials. He says that there were 77 witnesses examined for the Government on the first trial and 13 subpoenaed who were not examined. The record shows that there were 98 witnesses examined; the list is in the index in the third volume of the record of the trial, with the page where each witness's testimony begins. There were 98 witnesses examined instead of 77, as stated by Mr. Ker. He says that at the second trial there were 150 witnesses.

Mr. Ker makes a good deal of talk about the new witnesses that he obtained. The fact was, as I have said, that 98 witnesses were examined for the Government on the first trial and 121 on the second trial. Thirty who were examined on the first trial were not examined on the second. Thirty-three were examined on the second trial who were not examined on the first. The index shows the number of witnesses examined on both trials. As to those new witnesses who were produced on the second trial, I shall endeavor to show the committee just what the fact is. Rerdell became a witness on the second trial. There were 50 new witnesses examined on that trial who were not examined on the first, though the aggregate number of witnesses on the second trial was only 33 greater than the aggregate on the first trial. Twenty-seven of those new ones were witnesses who were made possible by Rerdell's testimony. Among them was Rerdell's wife; there was a Mrs. Cushman, there was a clerk at the Ebbitt House, there were some eight or ten Western Union Telegraph men who were brought from New York for the purpose of proving the destruction of a telegram, the substance of which we were prepared to prove, as to Dorsey. Twenty-seven of the new witnesses were made possible by Rerdell's testimony, and they were all got either by Rerdell or by myself. Eight of the new witnesses were clerks in the Department, who were called simply to produce and identify papers in the place of 12 other clerks who had been called on the former trial but were not

called on this one, the Department having simply sent one clerk instead of another with the papers that we had asked for.

Of the new witnesses, one was a man who replaced a dead witness. The postmaster at Ouray, in Colorado, Dr. McDonald, had resigned and was here as a witness, but before the second trial he died, and we subpoenaed his successor. Another witness was obtained in this way: There were two men, partners in running a route out in one of the Western States or Territories, and on the first trial we subpoenaed one partner, and on the second trial the other. Another witness was a deputy postmaster, who was examined merely to prove the time of the arrival and departure of mails at the office at White River, in Colorado. His brother, who was the postmaster, had been subpoenaed on the first trial, but did not attend in consequence of sickness. Another witness was Mr. George Haycock, whom we substituted in the place of Mr. Powell Clayton. We found that the evidence of Mr. Clayton, so far as it was not supplied by that of Rerdell, we could supply by documents. We needed Clayton on the first trial because he proved the introduction to Mr. James, but after Rerdell himself came on the stand that was not necessary. Another witness was Mrs. Powers, wife of a postmaster in Oregon. She came here with her husband, and in conversation with the husband I ascertained that his wife knew some things about the mails there, and I subpoenaed her myself. Now, you will notice that in this letter of mine to Mr. Ker, which I have read, I suggested that Shaw and another one be engaged to look up additional witnesses. They were so engaged, and they brought on two additional witnesses; that being done in obedience to my request. I suggested also in that letter that Steinegger would supply the deficiency. He was a subcontractor out on the Silverton route in Colorado. We had on the former trial one of his drivers.

We were criticised a little then by the other side because that witness did not entirely fill the bill, so I substituted Steinegger in place of Carson. You will notice that Krider, on the Mineral Park route, was suggested to look up somebody who would prove the geography of the route. He brought a man named Wright here. On one of the routes we had had on the first trial no witnesses, but solely record evidence. That was a subject of criticism, and therefore, on the 26th of October, I wrote Mr. Brewster a letter, which I will not read, in which I simply asked that Marshal Tidball, who had been a post-office inspector, and was out there at the time, should be sent over that route, and should bring witnesses here; and Mr. Tidball went over that route and made a report upon it, and sent Mr. Steele here. From a route in California, in relation to which we had had one witness, the contractor, we had on the second trial a second witness, a man named Hayes. His name appeared in the papers relating to that route, but it was accompanied by such statements from the post-office inspector that on the first trial we thought he was hardly a safe witness to bring, and therefore we did not bring him. It was represented that he was in a chronic row with the people there. But on the second trial he was subpoenaed at my request. There was one route as to which we determined we would bring every subcontractor in the whole history of the route, for the purpose of showing that at no time during the existence of the route was the number of men increased at all, after expedition, over the number used before. On the first trial we had all the subcontractors but one, and we had also somebody connected with the missing subcontractor, but his wife got sick, or, at any rate, for some reason or other he was allowed to go home, and on the second trial we brought him here again. There was one addi-

tional witness who was brought to prove a letter which we had had unexpected difficulty in proving on the first trial. Forty-nine of the new witnesses who testified on the second trial, but who had not testified on the first trial, are thus accounted for.

I have here a schedule containing all the names of the witnesses, and I desire only to say that every one of these men was brought here by subpoenas issued at my suggestion, except the witnesses that were obtained here in consequence of the information given by Rerdell, such witnesses as Mrs. Rerdell, Rerdell's brother, Mrs. Cushman, the hotel clerk, and so on. As Mr. Ker boarded at the Ebbitt House it is possible he had something to do with bringing that clerk as a witness, though the suggestion came from Rerdell. There was only one single witness produced on the second trial through Mr. Ker's exertion. That witness was a man named Cabell, who was brought here from Dakota. In the middle of the trial Joe Pennell, who was a very useful man, desired to return home to attend to some business, and he also thought that he could find some additional witnesses. In the examination of the witnesses out of court Mr. Ker discovered that a man named McClellan had stated that John W. Dorsey when out there in 1879 made a statement as to the connection of his brother, Senator Dorsey, with the business, though McClellan had been examined on the first trial and had said nothing about this. It was said that the statement had been made in the presence of this man Cabell, and they sent for him and brought him here, and he so testified, and McClellan so testified. I always felt that the bringing of Cabell here injured our case, because it enabled them to say, and they did say, and pressed the point with considerable earnestness on cross-examination and elsewhere, that there had been a fixing up of this testimony; that McClellan had been examined on the first trial and had said nothing of this kind, and that now here was another witness brought from Dakota to support McClellan's manufactured statement. And another way in which it injured us was that it seemed to show that Joe Pennell, who was a very valuable witness, was appearing as a sort of partisan in the case. As I have said, I felt that the bringing here of Cabell was a mistake, and Judge Wylie has said to me within ten days that he considered it a great mistake. Mr. Ker is entitled to the credit of bringing that witness here.

Now, perhaps it is just as well to account for the witnesses who were examined on the first but who were not examined on the second trial. Twelve of them were clerks in the Department, who were replaced as witnesses on the second trial by other clerks. Four were witnesses to prove matters which were ruled out on the first trial. Four were witnesses who were exchanged for others. One was a witness called on the first trial to contradict a witness for the defense. This was Mr. Nelson, a newspaper man, but inasmuch as the defense did not produce their witness on the second trial, of course it was not necessary to call him. One was rendered unnecessary by Rerdell's testimony, and there was one who had gone back on us on the first trial. Three we found to be cumulative and not needed. Another one was not needed because of the failure of the defense to cross-examine Walsh on the second trial. The result of that failure was that an important witness who would have confirmed a valuable part of Walsh's testimony was not admissible, because Walsh was not impeached. One was a United States Senator whose testimony we did without, as it was not important, and one was postmistress at The Dalles in Oregon. She was the widow of a member of Congress. We had brought her here on the first trial, summoning her by her initials, not knowing that she was a female, and

we thought it would be a pretty hard thing to bring her here again on the second trial, so we got along without her. That was the way those witnesses were disposed of.

Mr. Ker (page 528) mixes up Walsh and Moore, so far as dates are concerned, extraordinarily. He says I told him that Walsh was a man of bad character, whom no one would believe. I do not think I ever told him anything of that kind; I certainly never told him anything of the kind at that time. Mr. Walsh had not originally made the statement which rendered him admissible as a witness, or clearly admissible. He had made a written statement, and I am going to call the attention of the committee to that statement directly, as going to show how far he is to be believed. He had made a statement of dealings that he had had with Brady in connection with Route 40101. He never had said or lisped a suggestion that Brady, in any conversation, had said to him, "You must do as the other contractors do, to wit, pay such and such a percentage." Of course, the moment Walsh did make that statement he became an admissible witness in the Dorsey case. Before that we were hoping to get him in as a witness, and I had looked up, with some labor, cases about false pretense, as, for instance, cases which, in a trial on a charge of false pretense, you are allowed to prove that the accused has made similar false pretenses to somebody else. Also, where, on a trial for passing counterfeit money, you are allowed to show that the man had passed other counterfeit money. We were looking to see whether we could not get him in under that rule, and I was looking into that question when, along in the first trial, Mr. Woodward got his pumps on to him and came in one morning and told me what he had done with Walsh, and I think he showed me a statement which contained this remark of Brady's. Of course I said at once that that rendered Mr. Walsh an admissible and an important witness; and as soon as I saw Mr. Merrick on that day I said the same thing to him. He told me he had already heard of it, and that he considered that it was a very important point. But this, you will remember, was not until late in the trial. Bear in mind that I had had an interview with Mr. Walsh on the 28th of September, 1881, in which, in writing and in detail, I went over with him everything that he knew in relation to the case, and he took that statement away and corrected it in his own handwriting. Then I got it again, and went through every statement, and you will see [exhibiting the paper] that the margins are filled with changes and corrections and notes, and yet from the beginning to the end of this statement Mr. Walsh does not mention anything about this remark of Brady's. And before I get through I will show you a still more remarkable omission on the part of Mr. Walsh.

On page 535 of your record, Mr. Ker gave some testimony with reference to the witness Moore (I think there is something on that subject earlier in his testimony), but, at any rate, the implication seems to be that Mr. Moore was obtained by Mr. Ker as a witness, and brought here from Montana, and that I ought to have had him on the first trial, and also that I ought to have had him on the second trial. Let us see what the record shows in regard to that. Post-Office Inspector Sharp was sent to Oregon to look up the routes there, and all the knowledge we had of what Mr. Moore could testify to was obtained through Mr. Sharp's report. Mr. Sharp went to see Mr. Moore, and got a statement from him, which was somewhat inadequate, and he made a special report on the 4th of August, 1881. Mr. Sharp is now Chief Inspector of the Post-Office Department, and Mr. Lyman will tell you that he is as thoroughly reliable a man as exists. He made a report, in which he characterized Mr. Moore, and

it was upon that record that I was asked to put in on the first trial a witness of whose possible testimony we had very inadequate knowledge, and of whom Inspector Sharp said :

He is a disreputable and unreliable rascal, about as low a specimen of humanity as I ever saw. He lives at Cascade Locks, where he has a respectable wife and several small children. He is now engaged in conducting a hurdy-gurdy house, in other words, a house of prostitution. He has a house erected on an old scow, in which he keeps a lot of prostitutes of the lowest order, and a bar, and dance hall. This scow he moves up and down the Columbia River, between the Cascades and The Dalles, according as the camp of railroad hands move, who are building a railroad on the river bank between the above points. I do not think that he would hesitate a moment at swearing a lie, or doing any dishonorable or disreputable thing. His looks, actions, and talk are alike disgusting. I do not believe that he has any letter of Senator Dorsey or any one else that is so important as he would like to have us believe. He is evidently a great blowhard and liar, for some of the statements made to me I know to be untrue. I think Dorsey and Miner were deceived in him, and soon found out that he was but a loafer and threw him overboard. He did come to The Dalles and try to sublet the contracts, but people there informed me that they soon saw that he was a loafer, and would have nothing to do with him, and he did not succeed in subletting any of the contracts. He seems to have done a great deal of talking and blowing, but that was about all.

I have a sharp, shrewd fellow working on him, and if he has any such a letter as he represents, I think he will eventually get it, but I have no confidence in his having any such letter.

Will at once notify you if anything is got out of him.

Mind you, all we knew of the witness Moore was from this report of Inspector Sharp, and the question was whether we should bring him here at an expense of five or six hundred dollars. Mr. Merrick told me, going up in the cars, after he had testified here, that he had intended to say something about Moore, and to have told you that the omission to call him upon the first trial was a matter which we had talked over, and that it had been done with the concurrence of us both. Prior to the second trial, Mr. Boone, who had Mr. Moore as a *protégé*, and had brought him into the service of Dorsey and those people in that connection, became more friendly to the Government, and, as the boys in the country say, he "gave down" a good deal more information, and he came and urged upon me that Moore ought to be called as a witness, and told in detail what Moore could testify to. By the way, I should have said that this report of Sharp's was filed by Mr. Woodward and indorsed by him, and in that indorsement, among other things, is this, referring to the witness: "Low and unreliable." That is the condition in which the report came into my hands. As I have said, Mr. Boone talked with me about Moore and urged that he should be brought here, and told me what he could testify to. It was a great deal more than we had ever expected; and further than that, Boone denied that Moore's character was so bad as it had been represented. Let me say, too, that Moore is the witness as to whom I have already told you that the counsel for the defense showed by their cross-examination that they had possession of our information, because when Moore was on the stand they began asking him what he was doing, and pretty soon they showed that he kept a saloon on a boat. Then they questioned him as to who was on the boat. He said there were two fellows. Then the counsel, anxious to get at the women, said, "Well, what were their names?" Said he, "One I do not know; the other was Lou Maline." The counsel thought they had a fine point, for they assumed that "Lou" must mean Louisa, so they insisted upon his telling the first name in full. "Well," said he, "I don't know, but I suppose it was Louis." It was a disappointment to the counsel that "Lou" turned out to be a man, but all through the examination of Moore it was perfectly clear to us that they had had

access to this report of Inspector Sharp, and Mr. Woodward and I discussed it at the time.

The CHAIRMAN. How they obtained it is one of the mysteries of the case?

The WITNESS. Not a bit of a mystery. I do not think this committee has any doubt on the subject. Boone having talked to me about sending for Moore, I told him to go and talk to Mr. Merrick, and on the 4th of November Mr. Merrick wrote me as follows:

WASHINGTON, D. C., November 4, 1882.

MY DEAR COLONEL: Boone called to see me to-day, and has had with me the same interview, substantially, that he had with you.

It seems to me that it would be well to summon Moore, and to send Keitner, Boone's son-in-law, to bring him.

The possibilities fully justify the experiment.

Sincerely yours,

R. T. MERRICK.

On November 6 I wrote to Mr. Merrick:

NOVEMBER 6, 1882.

MY DEAR MERRICK: I have yours of the 4th. I fully assent to your views as to summoning Moore, though I shall be surprised if it produces any good results; but we must try everything. Letters on file from the Post-Office special agent, who went to find him last summer or winter, will show where he then was. He can be followed from The Dalles or from the place referred to. Colonel Parker's assistant, Maynard, has those letters, I think, though it is possible Moore has them among my files.

The Post-Office people have for some time been trying to arrest Spencer, and don't do it. What do you say to employing Pinkerton on that? If you agree, get me a duplicate warrant and send it to me. By leaving the other warrant in the Post-Office people's hands we avoid suspicion of what we are going to do. I think about November 20 means should be taken to locate Dorsey and Brady, and be prepared to meet affidavits for postponement of the trial. Of course other defendants are as good as they for this purpose, but they—especially Dorsey—are the men as to whom such application is to be feared; still, it would be well to locate all.

How about Rerdell? Has he done anything with Woodward?

I have had a very pleasant *taffy* letter from Brewster as to my going out of the cases and wishing me to stay in. Still I doubt. Lawrence, First Comptroller, has hung up my bill, and Brewster don't seem to assert his rights as to it. If he don't do so, out I go. I shall be in Washington soon, but not till after the bill question is disposed of. I'm not going to run after it.

Brewster has also sent me a letter addressed to you, Ker, and myself about other prosecutions. I presume you have the same. I have answered it at length and shown the situation. I would be glad to have you drop in at the Department and see it.

Yours, truly,

GEO. BLISS.

Hon. R. T. MERRICK.

The letter there referred to was Mr. Brewster's letter asking about the Salisbury cases; you will remember that that was a circular letter addressed to us all by the Attorney-General, and certainly if the responsibility for not procuring the indictment of the Salisburys had rested solely with me up to that time, from that time on Mr. Brewster placed it on all of us.

Well, we brought Moore here, and he was a very useful witness. We were a good deal alarmed at times about him, because they went into a cross-examination tending to show that he had made statements out of court to Colonel Pelham and other people contradicting his statements here. Moore had associated with those people a good deal, and they claimed that he had made such statements; but finally they did not attempt to contradict him, and he gave us a good deal of information about Dorsey, which the other side on the trial denied utterly, of course, but which, we thought, was entitled to weight. After Moore got here his wife died, and one of his children got sick of scarlet fever, and he in-

sisted on going home. We did not dare to let him go, because of this threatened impeachment, and with the concurrence of everybody I telegraphed through the Signal Service (because there was no other telegraph up where he was) to the postmaster to advance \$50 to his family, with the understanding that it was to be repaid by the other counsel. Of course we expected to get it from his witness fees if we learned of his payment in time, but we did not learn of it in time, and I have been left to be "responsible" for that \$50; and, therefore, I think I have quite as much interest in that witness as Mr. Ker has. I certainly had a good deal more to do with bringing him here.

A member of the committee suggested, jocosely, that a contribution should be taken up to reimburse Mr. Bliss.

The WITNESS. I am not seeking contributions; I am seeking what I doubt considerably whether I shall get—justice.

Mr. CRISP. I do not understand what the witness means by that remark. Does he refer to this committee?

Mr. VAN ALSTYNE. I do not suppose he refers to the committee.

The WITNESS. I have said "justice." The time may come when I will explain myself more fully. I do not think I shall do it now.

Mr. CRISP. Well, I object to this witness, or any other, making such a remark, if he means by it to cast any reflections on this committee.

The WITNESS. I have not reflected on this committee. I have not the remotest idea of referring to the committee.

Now, Mr. Ker says that I had not examined the witnesses on the first trial in advance, and that he examined them before the second trial, and brought out a great many new facts. In the first place, when he states that I had not examined the witnesses on the first trial in advance, he states what is not true, and what he knows is not true. As to his bringing out additional facts on the second trial, I cannot say that he did not. It would be very extraordinary if some additional facts were not brought out, but I cannot remember any. I have made a tolerably full examination of the record, comparing the testimony of the witnesses on the two trials, and I cannot see any new facts that were brought out on the second trial that amounted to anything. There may have been something, but I do not remember it, and I have been unable to find it. All I have to say about that is, that I did examine every witness that was brought here; I examined them personally, and there were some fifty of them. We had beforehand the general statements made by the witnesses to the inspectors, who had gone over the routes. The witnesses generally had made affidavits. Then those affidavits had to be worked up and criticised and compared by Mr. Woodward with the papers on the files of the Department, and then I went over the matter with each witness before he went on the stand. Every witness, before he went upon the stand, was re-examined by me to find out what he would testify to; some at greater length, and some at less. As I have already stated here, I went out of court at 4 o'clock, and I was rarely in bed before 2 o'clock in the morning; my time being almost entirely taken up in court and in examining the witnesses in advance, either for the next day, or the next but one, because I tried to keep the work a couple of days ahead, so as not to be embarrassed in case anything should break down. I examined those witnesses carefully and conscientiously.

Mr. Ker says that the oral testimony was much stronger on the second trial than on the first. It was not made so through any new witnesses that he got. It was much stronger because we had Rerdell on the second trial; it was much stronger, because we had the witnesses that

Rerdell's testimony rendered admissible; it was much stronger because we had Moore. On the other hand, it was, as to some of the defendants, weaker. On the first trial only Vaile, among the defendants, went on the stand, and he made a bad showing. On the second trial, they all went on the stand, and some of them, probably, helped their cases; others, I think, did not.

Now, all through Mr. Ker's testimony, there runs the idea and the insinuation that I was not in earnest in the prosecution of Dorsey, and in that connection there are made some rather extraordinary statements, and I propose to ask the committee to hear me a few minutes on that subject. As soon as Mr. Ker had given that testimony, I addressed a letter to Mr. Merrick, which, perhaps, I may as well read here:

NEW YORK, May , 1884.

MY DEAR MR. MERRICK: The evening papers contain an abstract of some remarkable testimony given by Ker to-day. I inclose you a slip. It is so extraordinary, so beyond my comprehension, that, though it is a mere abstract, and though one of the papers says Mr. Ker has "more to come," I write you at once.

I cannot imagine what Ker refers to in the remark quoted as coming from you about my proposing to let Dorsey off. He can hardly have invented it out of the whole cloth, but as certainly you cannot have said it as he puts it, for I never made any such proposition. *That I am sure of.* Yet it seems to me there must be *some* ground or color for Ker's statement, though I cannot imagine what. I say this only because I cannot think it *could* be wholly manufactured. Something must have been misunderstood, something of joke taken as earnest, something put as a contingency taken as a proposition.

I cannot remember anything. What was there? Please tell me frankly if you remember anything to base this on. Your letters to me, of which I have many, and your whole treatment of me are inconsistent with any such sentiments or suspicions as Ker ascribes to you.

I knew or inferred from a remark of Ker's after the Kellogg trial that he felt ugly, though I can't imagine why, as I have always treated him well, and even before the Springer Committee praised his indictment and slid over his error as to initials. Some one has lied to him and started him off on a hostile track. You and I spoke of his not being needed in the case, but that was much later than he puts it, as one of your letters shows. Brewster coincided, as he has more than once told me and his letters show. But neither of us ever proposed to have him put out of the case.

The idea of my wishing to have Dorsey let out seems to me too absurd for belief. My opening argument on the first trial struck the keynote of him as being the brains of the conspiracy, and my closing one on the second trial stuck to the same text.

Yours truly,

GEORGE BLISS.

Hon. R. T. MERRICK.

Mr. Ker admits that on the second trial I was just as "vicious and vigorous" as any of the counsel. I suppose that somehow or other I had "experienced religion" in the mean time. Mr. Cook told you that I selected the weakest case. Mr. Cook told you that I showed great personal feeling against Dorsey. I suppose this committee is not governed by legal rules, for I certainly do not want to bring Mr. Cook within the rule that by citing him as a witness I claimed that he is credible, but I remind the committee that he did so testify. On page 107 of your record, Mr. Cook testified that I said that Dorsey was "the head devil," and that I showed great feeling against him.

Now, let us see what I said about Dorsey on the first trial. In that trial Mr. Ker opened, and so did I. I will read an extract from my speech on that occasion. On page 106 I say:

Now, as to the other defendants. Stephen W. Dorsey was Senator of the United States from the State of Arkansas until the 4th of March, 1879. These contracts were let early in the spring of 1878, and they took effect on the 1st of July, 1878. By a statute of the United States, Mr. Dorsey, being a Senator, had no right to be interested in any contracts with the Government. That is a fair statement of the effect of section 3739 of the Revised Statutes. Mr. Dorsey, as United States Senator, had been,

or was, if I remember right, the chairman of the Post-Office Committee, and, I think, on the subcommittee in charge of the appropriations for the Post-Office Department. As such he was brought directly in connection with the Post-Office Department and its officials. Mr. John W. Dorsey was a resident of a little town in Vermont, Middleborough, where he was the agent of a manufacturing concern situated in another town, and was a tinsmith. John W. Dorsey was the brother of Stephen W. Dorsey. Mr. John M. Peck was the brother-in-law of Mr. Stephen W. Dorsey. He was in bad health, afflicted, as I understand, with consumption, and unable practically to attend to business. Mr. John R. Miner was a resident of Sandusky, Ohio, and had been for ten years the friend of Mr. Stephen W. Dorsey. Mr. Rerdell was from Arkansas, had appeared on the records of Congress in no very reputable position, was brought here and became a clerk in the office of the District Commissioners, and afterwards became Mr. Dorsey's clerk, or secretary, or something of that sort; and after the contracts were obtained he seems to have become the factotum of all the parties to the conspiracy.

And on page 107:

It is believed, gentlemen, that we shall be able to satisfy you by evidence that this conspiracy, like other things of that nature, grew gradually; that it had its origin some distance back, Stephen W. Dorsey being the chief spirit in the conspiracy; that there was in the early stages brought into the employment of the conspirators a Mr. Boone, who had both brains and knowledge of the way in which the business of the Post-Office Department was done, and was fertile in expedients by which contractors could be benefited; that Dorsey brought in also Rerdell, the general factotum; that at some time J. W. Dorsey and John M. Peck were brought in, but they were practically little more than the mere willing tools of Stephen W. Dorsey, having interest in the contracts and sharing in the fruits of the conspiracy during a considerable part of its continuance. Peck, from physical incapacity, did little but make affidavits, and John W. Dorsey appeared occasionally upon the routes in the distant States to make arrangements for carrying out their business, and usually to make admissions which we shall be able to show you, and which are, as I think, pretty damaging.

When Mr. Vaile came into this business in connection with these gentlemen is a matter I must leave to the evidence. He certainly came into it very early. The circumstances under which he became connected with it are matters which must be developed by the evidence. But Stephen W. Dorsey might scheme and get up his clerks, and his dummies and bring them all in, yet Brady was the main feature to making the proceedings in any sense profitable or successful. Money could not be made unless Mr. Brady allowed them to make it. Money could not be made unless Mr. Brady aided them in making it. According to our view, Mr. Brady bore no different or more especial relations to these conspirators than he did to various other parties connected with the postal service at that time. It was, so far as Brady was concerned, a mere mercenary question of who would make it the most beneficial to himself; he cared not whether it was Dorsey or a person of some other name. He went into office in 1876 certainly not a rich man. He came out after being there five years or less alleged to be a rich man, certainly dealing with large sums of money. It has been said that he has made large profits in a patented invention. The result of the evidence will show you that there was not in that invention any profit to him at all adequate to account for his changed circumstances.

On page 112, I refer to the bids as having been got up in Dorsey's house. I say:

We shall show you various facts, some of which I have referred to, but a large portion of which I have not time to detail, from which we shall ask you to infer that these parties conspired together, because they will show that they acted in concert to accomplish a common end, and that common end was the obtaining of money from the Treasury; and that money went, in shares, more or less distinct, into the pockets of these defendants; and that being so, we shall ask you to find that these parties were guilty of conspiracy.

In the first place, they concurred in getting up these bids. Mr. Dorsey sent a portion of them certainly to Arkansas, as I have said, for execution, or partial execution, in violation of law. The bids, gentlemen of the jury, I think we shall show you, were largely, if not entirely, got up in a third-story room in Mr. Stephen W. Dorsey's house. They were got up there by Miner, Boone, and, I think, J. W. Dorsey. I do not think that Mr. Peck was in the city at any time during the getting up of the bids. The bids, having thus been got up, were put in in the names of these different parties, and then the contracts were awarded. After the contracts were awarded, each of these parties treated them as their joint property, as to which either one of them might take any action—do anything.

Again, on page 112 I say:

On the route from Trinidad to Madison, No. 38140, Mr. John W. Dorsey did the same thing. He swore as subcontractor, though he was not subcontractor. Miner was the contractor, and Stephen W. Dorsey was the subcontractor, but by a contract not then filed.

On route No. 38145 we find John R. Miner, at the request of Stephen W. Dorsey, writing, as he says, in the absence of John W. Dorsey, to a gentleman to take a contract to carry the mail upon the route.

And on page 113:

On the route from Eugene City to Bridge Creek, No. 44140, Mr. Peck was the contractor. You will find Mr. Stephen W. Dorsey appearing in the case in rather a significant manner, to which I shall soon call your attention.

On page 65 I say:

One of the defendants here, Stephen W. Dorsey, the former United States Senator, having occasion to write to his agent in Oregon to sublet a route of which he or some one of these defendants had become the contractor, said he was willing to pay—

On page 96:

As I have said, the law passed in 1878 for the benefit of subcontractors authorized the subcontractor to put his contract on file. That was regarded as a very proper and beneficial law. It was reserved for the gentlemen who are defendants in this case, so far as I can find, to devise a way in which its beneficent effect should be avoided. They promptly proceeded to put on file subcontracts with themselves. I do not recall the combinations, but they were about like this: Mr. John W. Dorsey makes Mr. Peck subcontractor; Mr. Peck makes Mr. S. W. Dorsey subcontractor; Mr. somebody else makes Mr. Rerdell a subcontractor.

On page 104:

I think I omitted in that connection to call your attention to one significant fact, and that is that though the service under these contracts with the Dorseys referred to in this indictment commenced on the 1st of July, 1878, and though the Dorseys and their associates got one hundred and thirty-four contracts, yet, as applicable to those contracts alone, during the year 1878 Mr. Brady made sixty-six separate orders increasing the pay of these defendants, and in the year 1879 he made seventy-two additional orders increasing the pay of the defendants. In other words, he made one hundred and thirty-eight orders increasing the pay on the routes awarded in the bidding to the Dorsey combination, on which the service commenced on the 1st of July, 1878, or should have commenced, and he made that large number of orders increasing their compensation within two years after the contracts were made.

And on page 109:

Those bids and bonds, gentlemen of the jury, were sent by Stephen W. Dorsey from the Senate of the United States, and some of the letters that were written by him were written on the official letter-paper of the Senate of the United States. They were sent to postmasters, who, in his State of Arkansas, he regarded as under his control, for postmasters are generally regarded as under the control, in a great measure, of the Senator from the State. He sent them, stating that he desired to oblige a friend. But in each and all of these letters he says, and he underlines it, "Don't let anybody know that these bids come from me; have them signed; get them signed by sureties; get this surety; do this business; send back these bids with sureties on them, to the responsibility of whom you are to certify, and you are to certify to it before they are complete and filled up; you are to certify to it in violation of the law; you are to certify to it in violation of the instructions of the Post-Office Department. But send them back."

"I am doing all this for a friend!" As Shylock had his friend, so there was a reason why Dorsey had a friend. As a Senator of the United States he could not at that time be interested in mail contracts, or in any other contracts. He was doing it all for a friend. He wanted it done. He wanted them to communicate back to him. But they must, however, keep it a secret that he had anything to do with it. Mr. Dorsey found, though, that human nature was better than he supposed. Mr. Clendenning, the postmaster at Fort Smith, wrote to him refusing to do this thing, and calling his attention to the fact that he was asking him to do something that was in violation of the law, and suggested that it might be an oversight. Mr. Dorsey replied, with a good deal of feeling, and substantially told Mr. Clendenning that he thought he was altogether too particular; but, however, that he was operating for a friend, he had seen the friend, and he need not do anything more. Mr. Hadley, the postmas-

ter at Little Rock, did something more; he procured to be executed and certified some, at least, of these bids, and those bids subsequently appeared here in this city. The name of John M. Peck was affixed to those bids subsequently, not before they went to Little Rock, and somebody was put up to personate John M. Peck, who was in New Mexico, to go before the notary and acknowledge that he executed the bond, and that he intended to perform the contract, and everything of that sort which the law requires. Those bids subsequently passed into the Post-Office Department—for the Dorsey combination put in, I think, something over a thousand bids at that letting—and were among the bids which produced the contracts in this case. The dates of acknowledgment, the dates of execution, and all the details upon those bids are utterly false and untrue beyond all dispute. They were certified by the postmaster without the names being signed to them. They were certified in violation of law, and this was done, gentlemen of the jury, at the request of Stephen W. Dorsey, a Senator of the United States, acting all the time for a friend. And yet, acting for a friend, as we shall show you, they got under those bids certain contracts of which Mr. Dorsey, having gone out of the Senate on the 4th of March, 1879, on or before the 1st of April, 1879, Mr. Dorsey appeared to the world as the avowed owner, and entitled to all that might be earned by a considerable portion thereof.

So much for what I said in the opening. Then, when Mr. McSweeney replied on the opening—they have a practice here that counsel on both sides may speak on the opening if they choose—when Mr. McSweeney replied as special counsel for Dorsey, he devoted himself largely to defending his client against the charges that I had made; and if the committee will look at his speech they will see that he refers constantly to the statements of “Bliss,” “Brother Bliss,” &c., against Dorsey, and defended Dorsey against them. Mr. McSweeney certainly seemed to think that I had said something against his client, Stephen W. Dorsey.

Mr. Ker says there was some trouble at the close of the cases because in my closing speech I did not say anything about Dorsey, and that if Mr. Brewster had not come in and given a list of ninety-six different instances in which Dorsey's name occurred in connection with star-route matters the case would have gone to the jury without any reference being made to Dorsey in the closing argument. That is about the substance of Mr. Ker's statement. Now, the facts are these: I closed on August 18; I was followed by Mr. Williams, Mr. Totten, and McSweeney, for the several defendants. Mr. Merrick commenced his closing speech on August 24 and closed on August 28, and his speech from beginning to end is an arraignment of Stephen W. Dorsey. He told you so on Saturday, and it is beyond all question so. He was followed by Mr. Henkle, Mr. Wilson, and Mr. Ingersoll, and then came the Attorney-General, as to whom I shall have something to say directly. Now, then, the committee will see that if I omitted to speak of Stephen W. Dorsey in my closing argument, I did not prevent the question of Mr. Dorsey's merits and demerits getting to the jury. I had put in all the evidence bearing against him. There is no question about that. I had opened against him in the way I have shown; and now as to my closing, the facts were these: We were a good deal embarrassed by the Attorney-General insisting upon closing the case. Of course we had to yield to him, but he had not been in court much of the time during the trial, and it is always embarrassing to have a man close a case who has not been in court throughout the trial; and, in point of fact, there was one particular thing in regard to which we labored under a good deal of disadvantage at the close. Mr. Ker, in his closing argument, took up each of the eighteen routes and grouped the evidence relating to each route. He also made some general remarks, but the body of his speech was devoted to that. By arrangement, which I supposed was an arrangement made with Mr. Merrick—it was made chiefly through Mr. Woodward—I was to take care to leave Mr. Merrick something besides threshed straw to deal with. I was not to go over the whole case. I

was to leave him something fresh to talk about. It was only fair that I should do so, and I was very glad to do it. So, in my closing speech I took up the different kinds of frauds and grouped them without much reference to the particular routes. I brought the different parties before the jury in connection with the different kinds of frauds in which they had taken part, as, for instance, the making of false affidavits and various things of that sort. Now, in pursuing that course of argument, as the committee will see, Mr. Stephen W. Dorsey did not naturally come up for mention so frequently as others because he had been under cover. For the first year of the conspiracy he had been a United States Senator. In the second year he was absent from Washington the greater portion of the time, and he attended very little to details. They were left to Rerdell. For instance, Dorsey made no affidavits. He wrote letters and directed the getting up of petitions and things of that sort, and to those I carefully called attention in connection with other matters as I went along. Having gone all over that class of frauds I said, near my close (page 2646):

But, gentlemen, the evidence does not stop there. I have gone over substantially the ground that has been allotted to me. It has been allotted to me to deal with the facts in this case, and not to deal with the law and the immediate application of the law to these defendants. All that mass of detail and interesting evidence which there is in the case which will show the way in which these defendants are mingled together, and are combined together, aiding each other all the time in spite of alleged divisions, in spite of alleged conferences and separations, and all that class of evidence is so mingled with the questions of law as to conspiracy, that I pass it by, leaving it to my abler associates who are to deal with the more important questions of the law as bearing upon this case.

I did that, but I had not omitted Mr. Stephen W. Dorsey in my summing up. On page 2598 of the record of the trial, you will see that I referred to a letter which Dorsey had written to a subcontractor who was getting fined; I referred to Dorsey's statement that the man was claiming that he was not getting money enough, and I called attention to the fact that Dorsey said to him in substance, "You are a fool. It wouldn't cost any such money as that. Don't talk so." I called attention to that, and I contrasted it with the claim in the affidavits that more money was necessary.

On page 2579 I referred to another letter of Dorsey's, and on the same page I referred to—

One of these little open and shut arrangements by which Mr. Rerdell, or Mr. S. W. Dorsey, or somebody else, had a subcontract on file, and therefore the subcontractor, who was actually performing the service, could not get his subcontract on file, and consequently could not secure the payment of his money; and this man said, if he had got his money directly from the Government, \$10,000 was first-rate pay.

On page 2621 I quoted in full a letter of S. W. Dorsey's, and commented upon it all the way through. On page 2642 I referred to Dorsey as having sought out Boone as a man to supervise the business and arrange it, and all that. On page 2643 I said that there was a peculiar clause in these subcontracts put in—we could not ascertain whether at the suggestion of Miner or of S. W. Dorsey or his brother—and I closed by saying to the jury that we called upon them for a verdict as against "all" of the defendants. That was the case. Now, if I had omitted S. W. Dorsey, or had not gone for him sufficiently, here was this condition of things: After, as Mr. Ker falsely says, Mr. Wilson had got before the jury that interview of mine; after, as Mr. Ker falsely says, Mr. McSweeney had got the Dorsey dinner business before the jury, after I had closed and after Mr. Wilson had closed, and after Mr. Henkle had begun (Mr. Henkle preceding Mr. Merrick). Mr. Merrick

telegraphed me as follows, and I quote this merely to show that, with all this "viciousness" of mine, I had not been very effective in "protecting" anybody—Mr. Merrick telegraphed me stating that Mr. Henkle was speaking; that the Attorney-General was to be there on Tuesday, and then he closed with these words: "They are beaten and demoralized." So that it would appear that in Mr. Merrick's opinion, at least, if I had been endeavoring to protect Mr. Dorsey, I had not been very efficient.

Now, finally, on this question as to whether I was endeavoring to protect Mr. Dorsey, or to do anything in that direction, I feel at liberty to state to the committee that, meeting Judge Wylie the other day, I said to him that I would like to ask him a question which he might answer or not, just as he chose, or just as he felt at liberty, and I then asked him this question: "Did you see anywhere during that trial any disposition on my part to let up on Stephen W. Dorsey?" The judge replied promptly: "Why, the idea is a perfect absurdity!" And he then went on to express his view of my services on the trial in terms which I shall not repeat, because I trust that this committee will have Judge Wylie before them. It is sufficient to say that a man with the most unbounded vanity could not desire more than Judge Wylie said upon that subject. None of the counsel in the case ever intimated to me that there was any question of my fidelity with reference to the prosecution of Dorsey. I never dreamed of it until Mr. Ker trotted it out here, and trotted it out at the instigation and with the fixing up of Mr. Brewster Cameron.

Mr. KER. There is no truth in that at all.

The WITNESS. I know what I am saying. Of course Mr. Brewster Cameron has been very efficient in his services, but the most fruitful investigation that this committee could make would be to investigate Mr. Cameron in connection with what are known as the jury-bribery cases. That happens to be the only portion of the investigation which does not hit anybody but Democrats and Mr. Brewster Cameron. It hits Mr. Ker, and it hits other gentlemen; it does not hit me; but this committee has, somehow, managed to pass that all over, and, with Mr. Brewster Cameron in attendance here every day, there has been no move made to investigate that part of the case.

Mr. VAN ALSTYNE. We are pleased to have our attention called to it. We have never had it brought to our attention before.

The WITNESS. I have called your attention to it now, gentlemen.

Mr. FYAN. You ought to have done it when you were on the stand before.

By the CHAIRMAN:

Q. What do you understand to be the facts of that matter?—A. I know nothing about that, and am not going to testify about it. The charge was made that Mr. Brewster Cameron undertook to bribe the jury on the first trial, and out of that there came a scandal that affected the whole case, and various attempts at indictments; all of which, I submit, it is desirable to investigate. Mr. Brewster Cameron went and had an interview, out of which grew a scandal.

Q. Did you have your attention as Government counsel called to the fact that there were attempts to bribe the jury on either trial?—A. No, sir; to no facts of that kind except those arising out of this matter, and the Attorney-General directed me expressly by letter to have nothing to do with anything connected with the bribery investigation, as he was attending to that himself.

By Mr. VAN ALSTYNE :

Q. You do not pretend to understand that affair in its full scope?—

A. I do not know anything about it. I simply know what I read in the papers, but from them I do know that there was a dirty scandal there, and that the charge was that the Department of Justice and the prosecution were endeavoring to bribe jurors on their side; and, inasmuch as you saw by Mr. Merrick's testimony that, as Mr. Stewart said, Mr. Merrick left only one inference, that that jury was corrupt, if the prosecution rested under any suggestion that they, too, had attempted to bribe the jury, why, then, it was a case of "the pot calling the kettle black."

By Mr. FYAN:

Q. What you say about it now is, that if the prosecution was engaged in any such thing you had nothing to do with it?—A. I do not mean to say that they were engaged in it; I mean to say that a scandal arose out of Brewster Cameron's interview with Dickson and some others, and that I had nothing to do with that matter.

Q. What authority have you for saying that there were none but Democrats implicated in that affair? Brewster Cameron is not a Democrat, I believe.—A. I have this authority, simply speaking from the papers, that Mr. Ker was concerned more or less, as I understand it, in advising Brewster Cameron to go and have that interview.

Q. Do you mean to intimate that Mr. Ker was a party to that?—A. I do not mean to intimate anything of the kind.

Q. Didn't you say awhile ago that this committee had failed to investigate that matter, and that an investigation would develop the fact that there was nobody implicated in it but Democrats and Brewster Cameron?—A. I think so.

Q. What was your authority for that statement?—A. My knowledge of the case.

Q. But you do not know any of the facts of that matter?—A. I don't know anything about it but what I have heard. Mr. Cameron himself testified that he went there and had the interview.

The CHAIRMAN. He has not so testified before this committee.

The WITNESS. I know that.

Q. Can you name any other Democrat than Mr. Ker that you think is implicated in that business?—A. Mr. Dickson is a prominent Democrat, and he was implicated—I do not mean to say whether guiltily or not guiltily.

Q. You understand the meaning of language, and I understand you to say, or to convey the idea, that one reason why this committee did not examine into that matter was that there were none but Democrats implicated in it, except Mr. Brewster Cameron. Is that the idea that you wished to convey?—A. I don't know whether that is the reason or not; I simply state the fact. I think that probably *had* some influence in my mind. That is my judgment. I think also that the services of Mr. Brewster Cameron in various ways to this committee would naturally lead to anything that led up to him not being touched. That is my judgment about it.

Q. Have you any knowledge on which to base your declarations? Do you know that this committee ever had any such information before it?—A. No; I have no knowledge that this committee ever had any such information; but, inasmuch as you have had before you the evidence of Mr. Dickson relating to his reading a paper in the jury room, and about his being approached to be bribed, and all that sort of thing, and as

there was just as much in the press about that scandal and more than there was about other things which you have investigated, all I have to say is that if the knowledge of that matter now reaches this committee for the first time, why, really, the committee have not been so wide awake as I supposed they were.

The CHAIRMAN. The committee have had information brought to their knowledge that attempts were made in both directions, and have received some *ex parte* testimony.

By Mr. MILLIKEN:

Q. Were those attempts to bribe made on the part of the Government?—A. They were alleged to have been so made. It was alleged that there were attempts on the part of Brewster Cameron and others to secure a conviction in that way; and then it was alleged that after that was exploded and it got into court there was an attempt on the part of the Government to squelch the investigation. I do not mean to say that any such charge as that was well founded, but that was the allegation.

Q. And I understand you to say that Mr. Brewster, the Attorney-General, directed you by letter to have nothing to do with that investigation?—A. Mr. Brewster did, I think by letter.

Q. Have you that letter?—A. I think I can furnish it. I have not got it here.

By the CHAIRMAN:

Q. So far as regards the point of none but Democrats being implicated, that allegation is not based upon the fact that the foreman of the jury was Mr. William Dickson, and that he was the person upon whom the attempt at bribery was made; and was not he the only Democrat connected with the affair?—A. I do not know that any Democrat was wrongly connected with the matter.

Q. But I ask you whether Mr. Dickson is not the only Democrat whose name was mentioned in connection with the subject?—A. I simply say that the names published in connection with that matter were Brewster Cameron, Mr. Ker, Mr. Dickson, and a man named Falls.

Q. Who was Falls?—A. Some kind of a lawyer here—not the lawyer of the same name who was formerly chief clerk of the Department of Justice.

Q. Do you not know that the only Democrat supposed to be implicated in that matter was Mr. William Dickson, unless you mean to implicate Mr. Ker?—A. I do not mean to *implicate* even Mr. Dickson. I simply say that the names mentioned in connection with the matter were those I have stated here, and that of those, Mr. Brewster Cameron was the only Republican. I have no reason to believe that Mr. Ker was or would be engaged in any attempt at bribery. I have no reason to believe any such thing at all, but my recollection is very distinct that Mr. Ker's name was connected first with the giving of advice to Mr. Brewster Cameron to go and have the interview at which Mr. Dickson alleges that there was an attempt made to bribe him, and, moreover, that in the investigation consequent upon the alleged attempt at bribery Mr. Ker had a good deal to do. I do not mean to say at all that there was anything improper on the part of anybody there; but there was a bad odor.

Now they say that the Attorney-General was very angry about that

interview of mine which was published in August, 1882, but on August 10 he wrote me as follows:

DEPARTMENT OF JUSTICE,
Washington, August 10, 1882.

Colonel BLISS:

MY DEAR SIR:

* * * * *

It is due to your careful, unexampled, and skillful marshaling of it and the conduct of it that the case has prospered. About this I propose to say something that the public will hear of as an act of justice to you, for you have endured much on account of it.

I regret your indisposition; it gives me pain to know that you are in any way afflicted, and I hope you will soon be better.

Convey the contents of this letter to Mr. Merrick, and express to him my thanks also for all that he has done so bravely and so well.

I am, truly, with great respect, your friend,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

If, as has been intimated, I was recreant to my duty with regard to the prosecution of Mr. Dorsey, it appears that Mr. Merrick did not think I had injured the case very much, for, as I have stated, before he had spoken at all he telegraphed me that the other side was "beaten and demoralized." On the 15th of September the Attorney-General wrote me from Newport as follows:

NEWPORT, R. I.,
15th September, 1882.

DEAR SIR: Your two letters, both within the same envelope, came here to-day. Of course, your own personal convenience must rule in the matter. I can hardly entertain the idea of your leaving the case; you have been and are so essential to its safe and prosperous conduct.

Do not proclaim this proposed withdrawal in any way till we see each other, or at least until I can be back in Washington and be able to adjust matters. As to this, I must respectfully and kindly insist that you will withhold your public or private announcement of it in any way for the present.

I am, believe me, truly,

BENJAMIN HARRIS BREWSTER.

GEO. BLISS, Esq.,
New York City.

That is written by the Attorney-General to a recreant counsel!

On October 7, 1882, he wrote me officially as follows:

I wish to assure you that your conduct of this important case meets with my hearty approval. Your untiring energy and persistency, and the thorough knowledge you possess of all the details in this case, are fully appreciated by me; and it is but fair that in the forthcoming trial you should not be called upon to make advances from your private purse to pay any demands that may arise. I shall give instructions hereafter so there may be no delay in making such advances as are needed for the attendance and expenses of witnesses.

I am, with respect, your obedient servant,

BREWSTER,
Attorney-General.

By Mr. FYAN:

Q. Was that written before or after the second trial?—A. Before the second trial. The allegation you know is that I did my duty in the second trial, but that I did not in the first trial. There is another letter that I ought to have read. Mr. Brewster was so overflowing with gratitude to this recreant counsel that on the 25th of October he wrote me—

In the star-route case you have done your duty faithfully, industriously, ably, and with the strictest integrity.

As to the future, my conviction is that your presence in these cases is essential, and it is my desire that you will remain in them. The good of the cases requires your presence, and every consideration of prudence would make your absence a thing to be regretted. However, we will talk further or write further about this hereafter. It is a happy thing that the health of your wife will permit you to act in them.

As to your colleagues in the case, I have not conferred with them, for Mr. Ker is

away; and then I only retained Mr. Ker for a special duty, because you asked for such a person—and that was the preparation of the pleadings. He has been of value since then in many other ways; but the general charge of the case I did not confide to him. I intended that he should be detailed to act under your immediate and special direction in the preparation of the pleadings, and in such other duties as you might require him to do. Mr. Merrick was retained to fill the vacancy occasioned by my withdrawal.

Upon reflection I would prefer, as at present advised, to leave the matter of your remaining to be the subject of *our* consideration. It is due to your position and dignity that it should be a matter that would rest exclusively between us. The case is under my control officially, and I am responsible, no matter what is done; and that responsibility I would assume after a conference with you hereafter. At present hold yourself as being advised by me that any suggestion of withdrawal is declined.

Mr. Merrick wrote me on the 8th of November:

I have had an interview with Mr. Brewster, and stated to him that your withdrawal from the case would necessitate my withdrawing also. We had quite a long conversation on the subject.

On November 30, having written Mr. Merrick that, as Mrs. Bliss's health had improved, I could remain, but that I did not wish to be here so much of the time; that Mrs. Bliss, being an invalid, was made anxious by my being away so much, Mr. Merrick wrote me a long letter in which he referred to this, and said that he regretted that she was anxious, and then went on to object to my being absent during any considerable portion of the time, saying:

The time you propose to be absent is probably the most important period of the trial for you to be present. All of the counsel should be in attendance during the first few days of the proceedings, when the course and direction of the case are being shaped, and the views and policy of the other side are being developed. Indeed, in such a case, in view of Mr. Ker's physical disability, both the other counsel for the Government should be present whilst the prosecution is putting in its evidence; if not all the time, except during the argument.

Something was said the other day about the removal of certain persons from office here. There were removed Marshal Henry, the postmaster, Mr. Ainger, his assistant, Mr. Parker, Mr. Helm (who was connected with the *Congressional Record*), and some others. Those gentlemen were all removed upon my letter of recommendation; and, inasmuch as some doubt was thrown out as to the sincerity of the administration, let me say this: I wrote that letter without any consultation with either of the other counsel, and without their knowledge. I addressed it to the President. I did not let the Attorney-General know anything about it. I felt that the men ought to be removed. As to Mr. Henry, the trouble arose from the fact that he had been Mr. Garfield's particular pet and friend, and at that time to do anything that seemed to touch anybody who had been associated with Garfield was looked upon as almost a sacrilege. All through the first trial we felt that Marshal Henry was not in the interest of the Government, and yet we could not put our fingers upon anything that he had done. After the first trial, as I recollect, he went out into Ohio, and there had an interview in which he pitched into the prosecution generally. Mr. Ainger was postmaster here, and owned a paper in Michigan, and after the first trial, or during the trial, he wrote a letter in which he attacked Mr. James and the prosecution generally. The atmosphere of this city was in many respects pretty unfavorable to the Government. Mr. Spencer was another of those removed. He was a Pacific Railroad director.

I wrote this letter to the President. I said to myself that if I sent the letter officially through the Attorney-General, I might not leave the President as I desired to leave him, entirely free to act entirely on his own judgment, because if an official letter came up to him through the Attorney-General from the counsel for the Government requesting the removal of certain persons, even if the act did not commend itself

to his judgment, he might feel under some sort of *quasi* compulsion to comply. For that reason I addressed the letter directly to the President. I inclosed it to his private secretary, saying to him that the letter expressed my views, that I wanted the President to read it and to act upon the matter entirely upon his own judgment, and to decide the question independently of any influence of the kind I have suggested; that, therefore, he was at entire liberty to treat it as an official letter on which he was required to act in some way, or to treat it as a private and personal letter (he had many such from me), of which no man would ever hear anything, unless he chose. That letter went to the President on those terms, and the President, without twenty-four hours' delay (though it was longer than that before he made the removals, because time was required for cabinet consultation), announced that the men must be removed, and that any one else who the counsel said was in the way of the prosecution in any manner should be treated in the same way.

By the CHAIRMAN:

Q. When did this take place?—A. Just before the second trial. I should think it was in November, about Thanksgiving, 1882.

By Mr. VAN ALSTYNE:

Q. Did you receive any advice or solicitation that favors of any kind should be extended to any of the defendants?—A. No, sir.

Q. From any one who had ever been connected with Mr. Garfield, intimately or socially?—A. No, sir.

Mr. MILLIKEN. Ask him squarely whether he ever received any such advice from Mr. Blaine?

The WITNESS. I will say to the committee that I have not conversed with Mr. Blaine since I went into the star-route cases; I have not communicated with him, directly or indirectly, and neither he nor anybody else approached me on that subject. I think it is just as well to ask the question square out about Mr. Blaine, and a great deal better than it was for Mr. Ker to write to the chairman of this committee to have Mr. Merrick asked that question the other day. That is what he did.

The CHAIRMAN. What is that?

The WITNESS. I am speaking of Mr. Ker writing to the chairman of this committee to have Mr. Merrick asked about somebody who approached him in relation to relieving Mr. Bosler of the obligation of his subpoena.

The CHAIRMAN. What was it about?

The WITNESS. I don't remember just how it was; but you asked him whether anybody had interviewed him about Bosler. The suggestion of that question came from Mr. Ker, and you know it.

The CHAIRMAN. What is your statement on that point?

The WITNESS. My statement is that Mr. Ker put up that inquiry by a letter to you.

By Mr. VAN ALSTYNE:

Q. Did you see the letter?—A. No, sir.

Q. Who spoke to you about the letter?—A. Some reporter.

Q. Can you give his name?—A. No, sir; I don't know the name of any reporter in this city.

Q. Was it somebody who professed to have seen the letter?—A. No, sir; I don't think he did profess to have seen it.

Q. Then he was speaking from mere suspicion?—A. I understood him to say that he was speaking from Mr. Springer's statement.

Q. Did you regard that as sufficient authority for you to found your

statement here on?—A. I generally regard the reporters as very reliable.

Mr. MILLIKEN. I object to the investigation of the chairman of this committee. [Laughter.]

The WITNESS. Mr. Merrick, in this letter of the 30th of November, refers to a conversation that I had with him after I had sent my letter to the President. I told Mr. Merrick that I had made the request for these removals, and he writes me here :

I had supposed from our conversation that certain parties would be removed, but as to the others, I had given them no thought. The prompt action taken in the premises, though not by any means so prompt as it might have been, has been opportune, and has created a very great change in the expressions indulged in by officials.

I was talking about the question of my relations to the Dorsey case. As to my summing up speech, I have here a letter from which I desire to read an extract. The letter is dated August 23, during the summing up, and is from a gentleman who was concerned as an assistant in the case. [Reading:]

I was with Merrick until one o'clock this morning. Your speech exceeds by far any that has been made, and all are praising it. I heard Judge Wylie commending it very highly, and Judge Carpenter is very lavish in his praises. Wylie said it was packed full, and very well arranged, and fairly delivered, and must have required much labor and study. I think the week will close with Merrick's speech, although he says he will not occupy more than three hours.

Q. Who wrote that?—A. A gentleman who was concerned in assisting us in the case. I have no objection to giving the name, if it is desired, but I am willing to leave myself in Judge Wylie's hands, *if* you will examine him; I will take his judgment upon this question as to my fidelity. Now, there is a single other point as to the Dorsey case to which I shall ask your attention for a moment. If I wanted Dorsey to escape, why did I select that case for prosecution? Walsh says it was a weak case; Mr. Merrick says it was not. On that point all I have to say, summing it all up, is that I never proposed or desired that Mr. Dorsey should escape. The files of this committee show you that Mr. Dorsey did not consider that I had shown him any favors. He has written the chairman of this committee a letter charging me with accepting bribes and doing other things of that sort. *He* did not consider that I had rendered him any service, or that I had manifested any desire that he should escape. As to my relations with Mr. Dorsey, in point of fact, until after the close of the election by which Mr. Garfield became President, Mr. Dorsey was almost a stranger to me; I had seen him but once or twice up to that time. After that I found that he had arrived at the conclusion at which I also had arrived, that Mr. Conkling and others, in their endeavor to make Mr. Morton Secretary of the Treasury, could not succeed, because Mr. Morton was a banker in active business in New York, and there was a statute which was right in the face of any such selection for Secretary of the Treasury. General Grant had failed to get that statute overridden in the case of Mr. A. T. Stewart, and I felt very well satisfied that it would not be overridden in favor of Mr. Morton, although we were very intimate friends. However, I was still anxious that that position should come to the State of New York, and was desirous that Mr. Folger should be made Secretary of the Treasury, and, to my surprise, I found that Mr. Dorsey had the same opinion. I had two or three interviews with him, but pretty soon my attention was directed to a statement of Dorsey's, in which he said that I did not amount to much politically, that I had no judgment, and a number of things of that kind. If we had had any intimacy before that it ceased, and therefore you will see that I had no such relations with Mr. Dorsey as would cause me to desire to protect him, or anything of that

kind. *He* does not think that I had any such desire, and nobody who knows anything of the matter does think so.

By the CHAIRMAN:

Q. It was not he who invited you to that dinner?—A. He did not invite me to the dinner.

By Mr. STEWART:

Q. Inasmuch as it has been stated that you were appointed to your position in connection with these star-route cases because of your peculiar relations to the President, I will ask you to state whether the President intimated in any manner, directly or indirectly, any desire on his part to protect Mr. Dorsey?—A. No, sir; he not only never intimated any such desire, but he went so far as this: Dorsey undertook to have an interview with the President, but the President declined to see him—told him he never would see him except as he saw anybody else, with the doors wide open, and Dorsey was cursing around Washington about the treatment he had received from the President on that occasion. The President never said anything to me about Mr. Dorsey in connection with the cases. The only thing that he did say to me was this: "Be careful of your own record, so that nobody shall be able to say that you have let anybody up." I never knew why he said that, or anything about it, but that is what he said and all that he ever did say to me about the cases.

Here is a long dispatch from Mr. Merrick, which I wanted to refer to in connection with my closing argument on the second trial. It shows that on the second trial I was as "vicious and vigorous" as anybody against Dorsey; but if you gentlemen will take the pains (which you will not) to go over that speech and to compare it with my speech on the first trial you will see that I began by saying that I should speak only a very short time, as so much had already been said about the case, but that in fact I spoke nine days, and you will find that for four or five days my speech was almost identical in substance with my speech on the first trial. The arrangement was somewhat changed, but the substance was the same. After I had been speaking two or three days there developed a little intrigue apparently by which the other side were arranging to let the case go to the jury without making any reply. They thought they were going to catch us in that way, because I had covered only part of the ground, and they thought that if they made no reply the remainder of the case would not be touched in our summing up. Thereupon Mr. Merrick telegraphed me to New York that I must go over the entire ground, and, as a consequence of that suggestion, this speech of mine which was intended to be a brief one of a couple of days' length was spun out to nine days. When I got through one of the counsel on the other side said that for the first three days I did not hurt them any, but that in the last five or six days of my speech I hurt them so much that they had to change their programme and arrange to reply. Here is Mr. Merrick's telegram:

WASHINGTON, D. C., May 6, 1883.

To Hon. GEORGE BLISS,
160 Broadway, N. York:

I don't see how you can finish before Tuesday afternoon. Your argument has made a deep impression, and must be deliberately concluded. The partition of the routes, and the partition at the same time of the "burglar's tools;" their subsequent use by respective parties assisting; acts done by each, distributive for one another, in accordance with the agreement of partition; the books and Rerdell's memorandum, and his evidence in connection with Kellogg and Torrey and Donnelly and Gibbs; Judge Bissell's confronting Dorsey in court-room; refusal to produce check-stubs, not on notice, but on cross-examination, when Torrey swears they were marked "mail"; Bosler's purchase; the affidavit of eighteen eighty-one, which Dorsey was forced to

admit was modified by him and Ingersoll; the relation of Rerdell to the case and present relation to Government, and another review of the affidavits, which are the levers that opened the Treasury doors. All these fully gone into will take time. I will not be allowed to speak, for the defendants will submit, and you must prepare dressing for them on this, treating such conduct in such a case as an abandonment.

R. T. MERRICK,
Special Assistant Attorney-General.

From the time I got that dispatch and was free to trench upon what I had regarded as Mr. Merrick's ground, I went fully into the Dorsey business, and what I have just stated is the reason, and the only reason, why there was any difference in my treatment of the case of Dorsey on the first and on the second trial.

I have stated that the Attorney-General insisted upon making the closing speech on the first trial. He did so insist, and he did close the case. He wrote me on August 10, 1882, as follows:

Now, about another matter. It seems that some arrangements had been made with reference to the speaking in the star-route case. I was not consulted about it, and I submit perhaps it would have been better that I had been. I had an interview with Judge Wiley, and a perfect understanding with him that I would speak at the conclusion. He assented to it himself, and saw no difficulty in allowing Mr. Merrick to precede me. This I conveyed to Mr. Merrick and to Mr. Ker. Whatever complaints the defendants made I do not regard them. Of course they would complain, but it was wholly within the discretion of the court, and I have prepared myself to speak in conclusion.

I propose to make a short, concise homily, to be almost *quasi* judicial in its character. I will conclude the case. That is my position as the head of the case, and there I must be and there I will stand and propose to speak.

I do not desire to speak for the mere sake of speaking. It would give me great relief if I could be discharged from this duty, because I have undergone a great deal of labor this year, and I am pretty well worn out, and then, too, I feel that not having followed the case in court I might be at a disadvantage unless I had prepared myself in a certain way for a certain treatment of the case; as I have done, it will enable me to escape any criticism upon that score. I have most diligently and industriously read every atom of evidence that has been given, and read it more than once, and I have methodized and arranged the subject, both upon paper and in my own mind, and I have collated authorities which I intend to use.

I send you eleven copies of references to those authorities, some of which I will use, and all of which I may use. I do not know what your practice is here, but I do know that with us no authorities can be referred to in a concluding speech that have not either been referred to before, or which, having been cited, must be given to the other side when they begin their speeches. Now, I will have eleven copies of these references sent to you with this, and you may give one to each of the counsel on the other side, *if the practice here requires it*; if it do not, why keep them; but be careful that we live according to practice, for if we omit what we ought to do I might be excluded from reading these books, and then there would be some sort of contention got up in court, which I do not like to have. I want to go along smoothly without interruption; I want to conduct my part with gravity, in a temperate, straightforward, emphatic way, as I said before, with brevity, sobriety, and directly to the purpose, and with brevity enough not to disgust the jury with an oft-told tale, and yet with certainty and precision enough to bring their minds down to what I conceive to be a sober contemplation of the whole case in its proper aspect with reference to their duty to the community at large and the whole country.

Now, as to my speaking. I propose to speak last, because it is the position of the Attorney-General, and if I go into court in this case contrary to the custom I must stand where my official position places me and no where else. Then, again, if I were to speak last, and they claim to speak after me, and they were allowed to, I would certainly decline to speak if the court imposed such terms upon me, because I hold that the right of the Government to have the last word in all of these cases is so essential as a general principle that it would be a very unworthy thing for me to do to have a precedent set in this case that might be quoted hereafter to the prejudice of the Government, simply for the sake of speaking himself, so I desire it to be arranged that I may speak last, and without any human being following me except the judge. In that way I will maintain what is due to my office, my position in the case, and the practice under such circumstances, and the right of the Government to conclude.

You may believe me that I have with patient industry endured more labor in the preparation of this case than I have in any other for a long while.

Mr. Ingersoll, who had the speech immediately preceding, adopted what was to us an unexpected course; he insisted upon it that there was a variance between the proof and the statement of the overt acts in the indictment; that, even supposing the overt acts were proved, and even though the evidence might have shown some fraud or other, it did not prove the overt acts set forth in the indictment, and therefore that there was a variance. That was the first time that idea had been brought in. The point had not been made before. The Attorney-General was the only counsel on our side who was to speak after Mr. Ingersoll, and he proceeded with his speech and was just about to close when Judge Wylie interrupted him (page 3145) in this way:

The COURT. Mr. Attorney-General, before you close allow me to make a suggestion. It was contended yesterday with great confidence by Colonel Ingersoll that the overt acts in this case are not the overt acts set out in the indictment. I think he must have occupied two hours. Of course his observations upon that point could not have escaped counsel. I do not know whether you have anything to say on that subject or not. The argument might have made some impression, possibly in some quarters. You do not know what impression it may not have made upon the court.

And the Attorney-General could not answer him. He had not been in court, and he did not feel able to answer, and he said, "Really, sir, it is a puzzle to me." The court called his attention to it, saying that it was a question of variance. Mr. Merrick undertook to come to the rescue. The counsel on the other side objected, that we were not to have another close, that the arrangement was that the Attorney-General was to close, and that was the condition in which that matter was left. Ask Judge Wylie, on the stand, what has he said with reference to that condition of things, and how we were left.

By Mr. VAN ALSTYNE:

Q. Why could not one of the other counsel "coach" the Attorney-General so that he would be qualified to answer that proposition?—A. We tried to do that, but we were there in court, and could not get an opportunity. If we had had an adjournment we could have done it, of course; but if you will look at the record you will see what occurred. The court returns again to the subject in this way:

The COURT. No; but his statement was based upon the dates of the affidavits filed in the cause. I do not know that he contended that there was any variance between the face of the affidavits as filed and the averment on that subject contained in the indictment; but he did argue that there was a variance between the averment in the indictment as to the time of the filing of those affidavits and the time when they were shown to have been filed by the evidence. * * *

Mr. MERRICK. The Attorney-General asks me to make a single remark in reply to your honor, which I will do.

Mr. WILSON. And to which we will reserve the right to reply, your honor. We do not propose to have two closing arguments in this case if we can help it.

So it went on back and forth, and the way we got a reply on that point, made by Mr. Ingersoll, as I recollect, was by some discussion upon the *prayers*.

By Mr. FYAN:

Q. What, in your judgment, was the effect upon the jury of the failure of the United States Attorney-General to answer that question?—A. Well, I don't know whether it had any effect upon the jury. My own impression is that that jury at that time was beyond being affected by talk.

By Mr. VAN ALSTYNE:

Q. You mean to say that they had been "fixed"?—A. No, sir; I have not said that. I mean to say that at that stage, which was within ten minutes of the close of the arguments, their minds were made up, so that I do not think that any little *faux pas* like that would affect the result, but at the same time it did not help us any.

Now, then, something has been said about the Attorney-General having come in and shown that Dorsey was referred to in the case ninety-six times. In the first place, there are not ninety-six of those instances in the tabular statement contained in the Attorney-General's argument. Stephen W. Dorsey was in fact all over the case. I have not any doubt that he was in it as guiltily as any of them; but as to the Attorney-General's list of instances, here are some of them: Boone went to Dorsey's house and had a conversation, and everything that occurred in that conversation is treated as a separate item showing Dorsey's connection with the star-route conspiracy. Some of the instances are of this character: "Boone prepared blanks for proposals"; "Boone had blanks printed"; "Boone was directed by S. W. Dorsey to send a number of proposals to certain postmasters"; "Boone sent blanks to Postmaster Clendenning, at Fort Smith, Arkansas"; "also to postmaster at Little Rock." All these Boone transactions are set forth as evidences of S. W. Dorsey's connection with the business, and in fact the table is full of things that do not connect with Stephen W. Dorsey. Then you must bear in mind that after May 1879, Stephen W. Dorsey admitted his connection with the business. He said that he had come in by assignment, that the rascalities were before that time and that he had had nothing to do with them. That whole record of S. W. Dorsey's connection with the case is largely Dorsey's drawing the pay on those routes after May 1879, which he admitted he did; nobody made any dispute about that. Therefore, I thought that to refer to those things as proof of Dorsey's guilty connection with the matter was simply trifling with the jury.

Now is there anything else that you gentlemen desire to ask me in reference to Dorsey's connection with this star-route matter? If not, I will pass to another subject.

By Mr. STEWART:

Q. I will ask you one question, which you can answer or not as you please. Mr. Merrick stated as an impression—of course it was a mere impression of his, for necessarily he could not *know* about it—but he stated here that, although you did your duty unqualifiedly, yet he had the idea that you in your heart desired that Dorsey should get out. You know, of course, better than Mr. Merrick or anybody else, what was in your heart on that subject, and I shall be glad to have you state it frankly if you are willing to do so?—A. I had not in my heart any such thing; and that reminds me of something that I want to say here. It was obvious all through that case that Mr. Merrick was so good a Democrat that he could not imagine a Republican administration desiring in good faith to prosecute a prominent Republican; yet when he sat down and examined what was done he was compelled to see that it was so, and he was compelled on the trial to make an eulogistic allusion to the President for what he had done in that way. But after all, the leaven of Democracy was there, and he really could not imagine that a Republican administration was prosecuting in good faith the secretary of the National Republican Committee. He was honest in that idea. It did not shape his official action at all, but I saw evidence of it throughout. It is really my honest belief that that influence so affected Mr. Merrick, that his democracy was so inborn, that he did not feel that Republicans could be in good faith prosecuting a prominent Republican.

On page 542 of your record I find that Mr. Ker read an extract from the minutes of the grand jury, as follows:

The following presentments were returned to the grand jury by the special prosecuting officer of the Government, Mr. George Bliss; he having for some reasons best known to himself, failed to prepare and submit indictments: Edwin J. Sweet, William J. Barringer, James B. Henderson, and J. L. Sanderson, for perjury.

Now, gentlemen, those people were presented. The presentments went to Mr. Ker and Mr. Ker did not draw the indictments; he declined to draw them. He drew one or two more than he expected to draw, because I insisted upon it, but the others he did not draw. And Mr. Ker was right.

By the CHAIRMAN:

Q. What cases were those?—A. Those were the cases of Sweet, Barringer, and Sanderson. The reason was this. The grand jury presented those indictments. If you will refer to the statement made by Mr. Ker of the indictments which he drew, the list which he has given, which appears on page 521, you will find that he specifies all of these parties but one. Those indictments were for perjury. He had drawn indictments for that same grand jury against Sweet for conspiracy, against Barringer for conspiracy, against Henderson for conspiracy——

Q. But not for perjury?—A. Not for perjury. The grand jury found all those presentments. It was a physical impossibility for Mr. Ker to draw indictments in all those cases before the time when the grand jury were to adjourn; therefore the question was, which of them were to be omitted. Mr. Barringer was a poor, miserable, broken-down ink peddler, who had made a clear breast of the whole thing to the post-office inspector—he was a mere tool, and there never was any idea that he would be practically prosecuted even on the charge of conspiracy. When we found that there was not time to draw all of those indictments the cases were gone over, and, at my suggestion, one or two additional ones that Mr. Ker had intended to omit were put in and these were omitted. Sanderson was presented for perjury. I have no distinct recollection on the subject, but I have no doubt that that “perjury” was in the making of affidavits for expedition and increase. There is no statute which makes that perjury, and we had three test cases already in which the evidence was here. We should be able to prove the falsity of those affidavits in those test cases by the evidence in the Dorsey trial, and, therefore, it was considered that the question as to that being perjury could be better raised there than in the other cases. If there was any responsibility to be taken for the omission of those cases, it was Mr. Ker’s; I had nothing to do with it; but, in point of fact, the presentments all went to Mr. Ker’s room, and he failed to draw the indictments simply because there was no time for him to do it.

By Mr. FYAN:

Q. From Mr. Ker’s testimony, I understood that the grand jury presented these parties, and handed the papers to you to draft the indictments, and that you failed to do it?—A. I did not draft indictments.

Q. I am not asking you that. I understand, though, that Mr. Ker says that the grand jury presented those papers to you for the purpose of having the indictments drafted; is that true?—A. I do not know, sir.

Q. That is what Mr. Ker says.—A. What Mr. Ker says is that the minutes of the grand jury read that way.

Mr. FYAN. He says:

If the jury had gone into court and handed the presentments to the judge they would have been entered upon the minutes of the proceedings of the court for that day; but from the reading of this it appears that the grand jury handed these presentments not to the court but to Colonel Bliss, who returned them to the grand jury.

The WITNESS. That is not true, sir.

Q. Then the chairman asked Mr. Ker this question, referring to you: “And [he] failed to prepare indictments in those cases?”

The WITNESS. I did not prepare any indictments in those cases.

Q. Now you say that it was the duty of Mr. Ker to prepare those in-

dictments. If that was so, then if there was any negligence in the discharge of that duty after the grand jury had indicted parties, that negligence was on the part of Mr. Ker, and not of yourself?—A. Yes, sir, absolutely; but I do not consider that, under the circumstances of the case, there was any neglect. Mr. Ker had to do in say three days what it would have taken at least four days to do, and therefore he had to pick out the part of the work that was most urgent and that he could do in that time, and leave the rest.

Q. Then, as a matter of fact, the grand jury did present those men, but, through the neglect of somebody, or else as a result of consultation between you gentlemen, those indictments were never prepared?—A. That is true. As district attorney I have frequently taken that responsibility.

Q. But you cannot say whose was the negligence in this case?—A. I do not think it was anybody's negligence.

Q. Did you consult about it and come to the conclusion that it was advisable to prepare those indictments?—A. I found that Mr. Ker had not drawn all the indictments. I spoke with him about it, and he said he had not drawn them all and there was no necessity for drawing them all, because some of these parties were already covered by indictments. I looked them over and picked out one or two that he did not propose to draw and suggested that he had better crowd those in. He was sitting up all night at the Department, and there were one or two additional indictments that he did draw, but which I think he would not have drawn except for my suggestion.

Q. What was the reason those men were not indicted after they had been presented by the grand jury?—A. Because there was no time.

By the CHAIRMAN:

Q. How would Mr. Ker know what cases had been presented by the grand jury unless you gave him that information?—A. Because they were given to the clerk of the court, and if the presentments were made while the court was in session, and if he was in court, he would ordinarily get the presentments from the clerk. Sometimes he took them and sometimes I took them.

Q. But the mere presentments would not give him knowledge of the facts upon which they were made?—A. No, sir.

Q. Whose duty was it to bring before him the facts upon which he could base the indictments?—A. I cannot tell you. I see that he says it was my duty. I do not think so; but that is a matter that I—

Q. (Interposing.) Well, did you bring to his knowledge the facts upon which indictments could be made, in the cases of Sanderson, Barringer and others, for perjury?—A. Yes, sir.

Q. When did you bring that information to his knowledge upon which he could base indictments against Sanderson and others for perjury?—A. O, as soon as the presentments were found. He knew it all at that time; it was all a matter of discussion.

Q. He did not appear before the grand jury?—A. No; but he knew everything that was there.

By Mr. VAN ALSTYNE:

Q. Were not all the facts upon which you expected to rely in the presentation of these cases to the grand jury, and upon which you were going to ask indictments, in possession of the counsel even before the grand jury convened?—A. I do not remember when that March grand jury convened.

Q. Well, before the cases went to the grand jury at all?—A. O, yes, sir.

Q. Now, then, was it not entirely practicable to have those indictments drawn before the cases were presented?—A. No, sir; I think not.

Q. Would the result be this, that if the grand jury did not find indictments it would be simply so much work wasted?—A. The difficulty about it was that Mr. Ker was so busy during the few days when these presentments were made and before the grand jury adjourned. Mr. Ker was kept busy all the time, and very frequently he and his corps of clerks worked all night.

Q. You were district attorney for the southern district of New York for eight years?—A. Four years.

Q. Have you not known, in your office there, indictments to be drawn and perfected ready to receive the signature of the foreman before the facts were submitted to the grand jury at all?—A. I presume that has been done, but I do not recall it. I doubt whether it was done in New York; the fact is, when I was district attorney there we could not jump until we got to the fence; we could not draw indictments in advance; and more than once, as district attorney, I failed to have indictments prepared in time for the grand jury.

Q. But there would not be much trouble in drawing an indictment for perjury based on a sworn affidavit?—A. Well, an indictment for perjury in the straw-bond cases is not the little paper that you might consider it, at least not in the way that Mr. Ker would draw it.

Q. Among the persons indicted for perjury, was J. L. Sanderson one?—A. Yes, sir.

Q. He was a prominent mail contractor, was he not?—A. He was.

Q. There was some question, was there not, as to whether he should not have been indicted in other cases?—A. It was decided, as Mr. Merrick has told you, by us all that he was not properly indicted in the conspiracy cases with the Dorsey combination.

Q. That is the same Sanderson?—A. I presume it is.

Q. In selecting the more important cases, as you have said you did, how happened it that you did not include J. L. Sanderson, who was one of the largest contractors and beneficiaries of these star-route frauds?—A. For two reasons. In the first place, none of us felt any certainty that these indictments for perjury could be sustained. In the second place, we should have the witnesses available to prove perjury in the Dorsey cases, but we should not have them in the Sanderson case; we should have had to bring them from Colorado, while in the other cases we had the facts in a nutshell, and we preferred to test the question there first.

By Mr. MILLIKEN:

Q. At the same time that you were engaged before the grand jury, you were engaged before the police court also, and so had double duty?—A. I think not; I think the fact is that when we were before the police court a grand jury was sitting, but it was the grand jury that was sitting on the first Dorsey indictment, and on that indictment no district attorney went before the grand jury. I will explain that when I get a little further along. My impression would be that the grand jury was in session at the same time that the police court proceedings were going on, or during a portion of the time, but I think that no district attorney went before the grand jury at the same time the police court cases were pending. Mr. Ker had the impression that I went before the grand jury that found the first Dorsey indictment. Perhaps I may as well explain about that now. The grand jury by which the first

Dorsey indictment was found, which was afterwards quashed as to Rerdell by reason of the fact that he was indicted only by his initials, had no district attorney before it on that indictment. Mr. Woodward was sent in with the papers on a given route, and he would go through them and explain before the jury. It was alleged, and I guess truly, that Mr. Woodward used to kind of sum up the case before the grand jury on each route. He was full of the matter and he used to make a statement of his views. The strawbond cases went before the grand jury in the same way, without any district-attorney. It is not the practice here for the district-attorney to go before the grand jury, and moreover, in that particular case and at that particular time, Mr. William A. Cook was very anxious to get before the grand jury, and I did not mean that he should, but I could not well go before them and leave him out, so no district attorney went. The first indictment was found, therefore, with no district attorney before the grand jury. This is pertinent to some discussion, which was conducted at considerable length and with considerable ingenuity, with reference to Mr. Woodward going before the grand jury in connection with the Venita and Las Vegas and other routes. No district attorney went before the grand jury that found the first Dorsey indictment, and none before the one that found the strawbond indictments, so far as they were found at that same term, and I think they were all found then. Subsequently, when we found the error in that indictment and had to get a new one ready, we had to do it in a hurry, and it was announced publicly in court that I was before the grand jury trying to get another indictment. I was, and we got that through much more quickly than the other, examining only twenty-four witnesses instead of forty-nine. That was the same grand jury that did not indict in the Venita and Las Vegas case. The business was put before them in the same way upon the one route as on the other, and they indicted in the Dorsey case, but did not indict in the other case. Now, the examination here was directed to show that I put Mr. Woodward in there before that grand jury only as a witness, and did not give him a chance. That is true. The fact was that on the 11th of April there had come up a plea in abatement on the first indictment, in which the parties set out that—

At and during the time the grand jury was considering the matters charged against said defendant, as set forth in said pretended indictment, one P. H. Woodward, an inspector of the Post-Office Department, and a layman, who was not an officer of this court, without personal knowledge of the matters and things connected with, concerning, or in any wise appertaining to any of the post-routes and the alleged acts of the said defendants, about which the grand jury was inquiring, was selected and sent before the said grand jury by some person or persons to the said defendant unknown, and that the said Woodward, claiming to be regularly subpoenaed and sworn as a witness in the case of the United States against the said defendant, when, in truth and fact, he was not so subpoenaed and sworn, was permitted to, and did, enter the grand jury room while said grand jury was in session, and considering the matter as aforesaid, and was permitted to, and did, make verbal and written statements of matters and things not of his personal knowledge, but derived from writings and ex parte statements made by other persons, and did produce, use, and read various statements prepared by himself, purporting to be narratives of pretended facts, together with observations, inferences, deductions, surmises, and innuendoes of his own, skillfully blended and ingeniously arranged so as to falsely represent the lawful acts of the said defendant, for the purpose of affecting and influencing improperly the minds of the members of the said grand jury.

They came in so late to file that plea that we were able to object that they had waived their opportunity to do so. We also objected that if the grand jury, having a witness before them, received inadmissible evidence, that did not invalidate the indictment. Mr. Woodward had gone before the grand jury without any district attorney, and they had allowed

him to take his own course. Now, when I went before the second grand jury, I had this matter in mind. I did not believe then, and I do not believe now, that if Mr. Woodward did these alleged things before that first grand jury, and if you could get proper evidence of that fact, the indictment could stand. At all events I thought that in a case where Mr. Woodward was sent with papers to produce them before the grand jury and identify them, if the grand jury took him up, and questioned him, and allowed him to explain and to sum up the cases, that was a very different thing from what it would be if I, being there as the district attorney with Mr. Woodward as a witness, should permit him to go on and do the same thing. I didn't think I had any right to do that, and therefore when I had him as a witness before the grand jury on the Vinita and Las Vegas case, I confined, or tried to confine, him strictly to his duty as a witness, producing papers and identifying them, and explaining the methods of the Department. He was so full of the business that he did want continually to get in other things, so that I had to stop him. There never was a word of complaint from him about it; but I think he always felt that he did not have quite so good an opportunity before that grand jury as he did before the other, and I do not think myself that he had. These were the motives that governed me in what I did in that case, and I think I was right.

By the CHAIRMAN :

Q. What was done with that plea in abatement?—A. It was too late. It was argued at considerable length, and the judge said he thought that even if the grand jury had taken inadmissible evidence it would not invalidate the indictment.

By Mr. FYAN:

Q. Did you tell Mr. Ker to cease preparing indictments, because you had agreed to arbitrate certain of these cases?—A. I am coming to that directly, if you will allow me. Now, with reference to the indictments: The Star of March 20, 1882, contains an interview with Mr. Ker, taken from the Philadelphia Times, in which he says:

“Colonel Bliss didn't supervise the bills of indictment at all; they were left entirely to me. Sometimes, coming into my office out of mere friendship, he would casually glance over the sheets as they lay on the table, but he never examined any of them. When the papers went before the grand jury no one thought there would be so much work. There was altogether too much for one grand jury. Colonel Bliss has been at the cases five or six months, and he has been working almost night and day. I have known him to continue his examination of the contracts many a time up to 4 o'clock in the morning. The cases will come up next Thursday. I expect that the court will make some peremptory order, and then I suppose I will be called to Washington to resume work.”

When questioned concerning Colonel Cook's reference to the irregular manner in which the counsel had been employed, he (Mr. Ker) said that he knew of no irregularity. On the contrary, he thought that so far as his knowledge of the law went everything had been done regularly and properly.

“There is enough documentary evidence on file now,” said Mr. Ker in conclusion, “to convict these people without the use of a single witness on the stand.”

As to the indictments, my view of Mr. Ker's relation to the business is not entirely the same as his. He states that he was expected simply to do clerical work—simply to take names that were furnished to him. I do not think that was entirely so. He had all the papers and all the evidence, and while it was suggested to him that certain names should go in, yet it was a matter of discretion with him as to what should go in. It was agreed, in general terms (and that is the way Sanderson came in) that every one who had made an affidavit on any one of the routes should be put in. As to the list of names referred to, from

which Mr. Ker prepared the indictment, if my memory serves me right, and if I am correctly informed by one of the clerks who assisted him, he is wrong in supposing that the list was in my handwriting. It was in Mr. Woodward's. That, however, is unimportant. The selection was made among us all. Mr. Woodward has testified before you that he was responsible for the error in the name of Vaile, who was called "Henry" in the indictment instead of "Harvey."

Now, a word as to the question of initials. Mr. Ker says that the omission of the name and the use of the initials was right, and that I told him the name could not be found. In that he is wrong. I never was asked to find out about the name; there never was any inquiry made about the name. To show you how little inquiry there was made, M. C. Rerdell's name appeared correctly in the Washington Directory of that year, and yet they say it cannot be found. In conversation with three of the clerks who were actively engaged in assisting Mr. Ker at that time, I find that they say that he is wrong, and that there was no inquiry made in reference to this point until after the question about the initials was raised in court. The only reference there was to the initials before that was this: In looking over the indictments about 2 or 3 o'clock in the morning, before they were to go into court, I saw that the initials of Rerdell and others were there, and I suggested that it was necessary to allege that the first name was unknown, and that that would make the indictment correct. Mr. Ker said it was not, and that I was misled by a recollection of the rule that where you undertake to plead a forged instrument you must allege that cannot make a copy of it, or something of that sort, and that what I suggested was not necessary. I do not think I was entirely convinced, and yet Mr. Ker knew so much more about criminal pleading than I did that I accepted his view and let it pass. I presume the sheet might have been rewritten and a new one put in, but it passed off as a mere casual matter. I repeat that I had nothing to do with looking for the name. Mr. Ker is mistaken about that, and I cannot think that there was any serious attempt made to find it at that time, because as I have said the Washington Directory of that year had Rerdell's name in full.

The CHAIRMAN. Mr. Ker desires to make a statement in regard to the point of his alleged connection with this jury-bribery matter.

Mr. KER. In giving my testimony before this committee some days ago, I told them that I had no criticisms to make upon anybody else; that I desired simply to give them the facts as I knew them personally, or as they had come to my knowledge; and that is what I did. I did not criticise anybody. The facts that I stated were those that were either on record or of which I was personally cognizant. In my statement of a conversation that I had with Mr. Merrick about Mr. Bliss, I simply stated what Mr. Merrick had said to me. I did not give the conversation as embodying my own views. The subsequent matters about the use of the Dorsey dinner bill of fare on the trial, the interview with Mr. Bliss published in the New York Herald, the failure of Mr. Bliss to mention Dorsey in his summing up, all these things I stated here as the moving causes which led Mr. Merrick to go to the Ebbitt House and engage rooms for me in which to receive and examine witnesses. If it had not been necessary to make that explanation in regard to an item of expenditure that had been criticised, I should not have mentioned the matter at all.

Now, as to what Colonel Bliss calls my misstatements here about what occurred on the trial, probably when the Attorney-General comes upon the stand, he, having been in court with me at the time, will be

able to tell the committee just what did occur. Certainly an attempt was made to introduce that book.

The CHAIRMAN. You desired to make some statement, I believe, in relation to the use of your name in connection with the alleged attempts to bribe the first star-route jury.

The WITNESS. Yes. It is the first time that I ever knew that my name was mentioned in connection with any attempt to bribe the jury—the first time I ever heard of it at all. The facts of the case are that I was in Mr. Merrick's office when Mr. Brewster Cameron came there and said that he had been asked by somebody to go and see Mr. William Dickson, the foreman of the jury, as Dickson wanted to talk to him. Mr. Cameron had come around to consult with the counsel to know whether it would be proper for him to go and talk with Dickson or not, as Dickson was the foreman of the jury. Mr. Merrick at once told Mr. Cameron to go. Mr. Cameron objected to going, saying that there might be some reflection cast upon him for going to see the foreman of the jury. Mr. Merrick said that he supposed that Dickson's object in desiring to see Cameron was a proper one; no doubt he intended to give him some information connected with some attempt to bribe the jury, some information that would be a benefit to the Government, and we both agreed that Mr. Cameron should go and see Mr. Dickson. That is what occurred. That is what I personally know about it, and that is all I had to do with the matter. Mr. Merrick was there with me and he will say the same thing. I know by hearsay that Mr. Cameron went to see Mr. Dickson, but I did not see him and had no conversation at all with him. I had nothing to do with that. I have stated all that I had to do with the matter. I have told the whole story so far as my connection with that business was concerned.

By the CHAIRMAN:

Q. Do you say that Mr. Cameron did not see Mr. Dickson?—A. He did not see him; that is, he did not converse with him.

Q. Is that all you know about the bribery business?—A. That is all that I know or had anything to do with, except to prepare the indictments against the parties.

Q. Was there any investigation started, with your knowledge or after consulting with you, for the purpose of determining whether efforts had been made to bribe the jury; if so, what were they?—A. Yes, sir; there was some effort made to ascertain that; as I stated in my examination before, that matter was put into the hands of Mr. H. H. Wells as special counsel; there are some eight people who were indicted in connection with that matter. Mr. Falls I did not know; I never saw the man in my life that I know of; I had no connection with those people whatever, either through a detective or by a detective. I had no detective.

Q. If there were any Democrats in that jury-bribery matter, who were they?—A. Well, Mr. Dickson is reputed to be a Democrat, and he is the only one I know of that was mentioned in connection with that matter; the rest are so-called Republicans, so far as I have been able to learn, although I do not know that that is the fact; we never investigated their politics.

By Mr. VAN ALSTYNE:

Q. So far as politics are concerned, you were a Democrat and Mr. Merrick was a Democrat?—A. Yes, sir; and I am not sorry to say that.

Q. Mr. Cameron was a Republican?—A. Yes, sir. He was the general agent of the Department of Justice, and my idea in coinciding

with Mr. Merrick in advising Mr. Cameron to go and see Dickson was that as he was the head of the secret or detective service of the Department of Justice, I thought if there was anybody who ought to go to see Mr. Dickson to ascertain whether any crime had been attempted he was a fit person. We had a very high appreciation of Mr. Dickson's character at that time; believed that it was away above the ordinary, and that he would not do anything wrong, but probably desired to see Mr. Cameron to tell him about some attempt in the interest of the defendants to bribe the jury.

In regard to what Mr. Bliss has said about Mr. Cameron and myself, I desire to say here that Mr. Cameron is a high-toned gentleman whose friendship I am proud of. I have never seen anything in his character that would lead me to think him anything else, and he has never approached me as Mr. Bliss suggests, or anything of that kind. I did not know that he and Colonel Bliss were on bad terms; on the contrary, I thought they were on reasonably good terms. Mr. Cameron never suggested to me what I should say here, nor did any other person. I told the facts which led to the expenditure for the rooms which I occupied at the Ebbitt House, and I told them for the purpose of explaining that item of expenditure and without any feeling at all against Colonel Bliss.

MR. BLISS. I think I have a right to object. I don't think it is proper to have a running commentary upon my evidence until I get through with it. I may say here that my understanding of Mr. Ker's connection with the bribery business was precisely as he has stated—the sending of Mr. Cameron to Mr. Dickson. It was an extraordinary thing to do, but Mr. Merrick concurred in it, and I had nothing to say about it.

By the CHAIRMAN :

Q. You did not know at the time that Mr. Merrick and Mr. Ker had advised Mr. Cameron to make this visit to Mr. Dickson?—A. I did not. It was a perfect surprise to me.

Q. Did you not know that this morning, when you made your statement about it?—A. I knew that they had advised him to go, but I did not know the motives that influenced them, nor anything about them. I certainly thought it was a very extraordinary thing to do; and I mean to say now that if anybody standing less high than Mr. Merrick had done such a thing I should have felt very strongly about it, but Mr. Merrick stands so high as an honorable man, and is so honorable a man, that I do not criticise his conduct in that matter.

If Mr. Merrick believed that an attempt had been made to approach the foreman of the jury it would have been proper for him as Government counsel to have ascertained that fact, would it not, in your judgment?—A. No, sir; if you want to know my opinion. If I learn that there is an attempt made upon a jurymen in a case on trial, and I am the prosecuting officer, I have no right as a prosecuting officer to get into communication with the jury. My duty is to go to the court and tell the court that I have learned certain things, and let the court deal with the matter.

Q. But they had not learned the facts; they wanted to learn them.—A. Well, I don't think a prosecuting officer has any right to communicate with any member of the jury after the jury is empaneled on any subject connected with the case. That is the doctrine in which I have been brought up.

Q. But if a jurymen desires to communicate with the counsel, and to inform them that an improper attempt has been made—A. (Interpos-

ing.) If a jurymen should, under those circumstances, come to me, I should say to him, "You can not talk to me, sir; I will take you right to the court." That is my view of it.

By Mr. VAN ALSTYNE :

Q. Your idea is that it was an error of judgment, instead of any evil purpose on the part of these gentlemen?—A. Oh, certainly. I had no idea that there was any wrong intention. I would not think of reflecting on Mr. Merrick by assuming that he would do a thing of that kind from any improper purpose or motive.

Q. But you, exercising your discretion under similar circumstances, would have refused to have had any personal interview. Instead of having a personal interview with a jurymen, you would have sent him to the court?—A. Yes, sir; I would not have had anything to do with a jurymen.

Mr. MILLIKEN (to Mr. Ker). Inasmuch as you spoke, Mr. Ker, of Mr. Brewster Cameron as you did, I desire to ask you whether or not you are convinced, from your connection with these cases, that the Department of Justice prosecuted them in good faith and with the desire to convict the guilty parties?

Mr. KER. I want to say that we had the entire moral and active support of the Attorney-General and of every person connected with his Department; and I want to say further that, so far as I was able to judge, we had the active support and sympathy of the President. I, on one or two occasions, from what I saw in the newspapers, was led to what Colonel Bliss says was suspicion on that point, but I subsequently ascertained that, so far as the President was concerned, he undoubtedly desired that the cases should be prosecuted to the end.

Mr. BLISS. Inasmuch as that matter has been gone into, let me say that there is no question that the prosecution had the active and entire support of the Department of Justice. If there was any error permitted by the Department, it was in manifesting too much zeal and earnestness, which led sometimes to the overstepping of the limits.

Mr. MILLIKEN. Do you not believe, Mr. Bliss, from your connection with these cases, that the attorneys on the part of the Government, both Democrats and Republicans, acted according to the best of their judgment and ability, and prosecuted the cases faithfully and for the purpose of convicting the guilty parties?—A. I do, sir. I never saw more earnestness, more zeal, or more disregard of personal comfort manifested in any case than was exhibited by the counsel engaged in the prosecution of the star-route cases.

Without concluding the hearing of Mr. Bliss, the committee adjourned.

WASHINGTON, D. C., *June 19, 1884.*

GEORGE BLISS, examination resumed.

The CHAIRMAN. Proceed with your statement, Mr. Bliss.

The WITNESS. I had spoken yesterday of the failure to indict certain persons. There seems to be an idea suggested in Mr. Ker's remarks that it was my duty to see that the grand jury kept minutes. I never heard that described as the duty of the district attorney, and I certainly never had anything to do with it. I doubt very much whether the district attorney has a right to interfere in that matter. I did not know whether the grand jury kept any minutes or not. It turns out

that they did keep minutes, and then by arrangement destroyed them. The first I ever heard of that was from Mr. Ker's testimony.

A question was put by some member of the committee in a way that implied that there was some dereliction of duty in not having tried some of the other cases. All I have to say is that I did my best to have some of the other cases tried. On the 22d of November, 1883, I wrote to Mr. Merrick as follows:

NOVEMBER 22, 1883.

MY DEAR MERRICK: Ker has two or three times suggested the wisdom of getting some other case or cases ready for trial in case the Kellogg case cannot be tried at the time fixed. There seems to me to be some wisdom in this; but, if so, what case or cases?

There are the Boone cases and the Cabell cases; I mean the fraudulent bond cases against those who went security for Boone and Cabell. As to Boone's cases, we might be embarrassed by the fact that we entered a *nolle* against Boone. This would certainly be the case in the conspiracy cases where Boone was charged as a conspirator, and, from the nature of the case, the chief one, who was to be benefited by the act of the others. There are perjury charges against three or four persons as to which the Boone objection would not have the same force. As I have told you personally, the second batch of bogus bonds in the Boone bids put in after we had publicly attached the whole seem to me particularly censurable. In this case one paid for his sureties, and they came and committed open perjury, as Boone claimed, with no knowledge on his part that it was false. As to them, the evidence is in much confusion. The bond on the faith of which they justified is well defined, and not only the false value they put upon it clear, but the knowledge that it was false is clearly shown.

In the other Boone cases the property is in West Virginia and Kentucky, illy defined, disputed titles, value speculative, &c. In these cases there would, under the conspiracy indictment, be some strength derived from the fact that the Government was really defrauded, for Boone failed as a contractor. I think, but am not sure, that this would apply as to Boone's second lot of bids, in which the —— testified.

Ker seems strong for testing some of Cabell's bondsmen, chiefly because two of them are clerks in the Interior Department. One of them, Dickson, I have not thought very criminal. In Cabell case the property was moved around from one to the other, not justifying in it in terms to insure amounts. But I think Cabell never failed as a contractor, and that, therefore, the Government suffered no real loss in money. The property, too, is the West Virginia and Kentucky stuff, to which proof is long winded—a matter of opinion and expensive to get.

Besides these bond cases we have various cases against Brady. It does not occur to me that any of them are *sure* of success, or anything like it. There are one or two against —— much weaker than the Dorsey case, but of the same nature; a lot against F. P. Lilly, a former deputy auditor, dependent in great measure upon old man Brott, who is also indicted, and who, if alive and reliable, is superannuated, I think.

That is not correct as to Brott; it refers to a man named Fisher, I think.

I don't entirely fancy the indictments in these cases either.

There are probably other cases, but they don't occur to me now, and I have no list at hand. Think this business over and write me or telegraph to me when Spencer unites us.

Yours, truly,

GEORGE BLISS.

HON. R. T. MERRICK.

Mr. Merrick and I had some conversation, in which he took the ground that it was coming down to take such small cases, and nothing more was said or done, I think, until on the 31st of January Mr. Merrick wrote me, in reply to my letter, as follows:

As to the other cases referred to, and their trial, I will consider the matter and consult with the Attorney-General on his return. There are peculiar circumstances connected with the Kellogg and Brady cases that render it impossible for me to withdraw from them, but I am not inclined to take part in any others from which I can with propriety be relieved. This is not for the public.

I suppose there is no harm, however, in giving it to the public now Mr. Merrick subsequently to this wrote a letter to the Attorney-General, dated January 7, in which he said :

WASHINGTON, D. C., *January 7, 1884.*

DEAR SIR: During your absence from the city, on the occasion of your recent visit to New Orleans, I received a letter from Colonel Bliss suggesting that as neither the Kellogg case nor the Brady case could be tried at present, it would probably be expedient that we should get some of the other star-route cases, of less difficulty and importance, ready for hearing and have them disposed of.

I replied to Colonel Bliss's letter, stating that I would see you in regard to the subject as soon as you returned, and that it was my purpose to ask your permission to withdraw from all the star-route cases, except the two I have particularly indicated above; and that, whilst I would be much gratified if I could get rid also of those two, nevertheless there were circumstances connected with them, as he was aware, placing me under such professional obligations to you and to the Government, that I felt compelled to remain in them until they might be finally tried and disposed of.

There are a number of indictments pending for perjury, procuring, executing, and filing fraudulent bonds, &c., in connection with star-route matters, that should be tried; but I am inclined to the opinion that they do not require, in their management, any other special counsel than Colonel Bliss himself, and I beg that you will release me from my duty in connection with them under the appointment you did me the honor to confer upon me as special assistant Attorney-General.

Please notify me at what hour it will be convenient for you to allow me the honor of an interview upon the matter referred to.

With great respect, your obedient servant,

R. T. MERRICK,
Special Assistant Attorney-General.

HON. BENJAMIN HARRIS BREWSTER.

That was January, 1884. At or about that time, I think it was a little prior to that time, the Attorney-General notified me that he desired that nothing further should be done in any of the cases. The committee will see that Mr. Merrick was mistaken in his testimony on Saturday when he said that he took the view that the cases should be tried by the district attorney. His suggestion was that they should be tried by me.

The witness, John A. Walsh, makes various statements which I had made memoranda to refer to, but I have occupied so much time that I will pass over many of them. It seems proper, however, to refer to the statement which he made as to my interest in the National Republican. In the first place, I did not become interested in the paper until February or March, 1882. My interest in it was one seventy-sixth. I had no control over it, and I had nothing to do with it. I went into it for the purpose of seeing if I could prevent some of the attacks which were being made upon the prosecution, and from the time that the paper passed into the possession of the gentlemen who purchased it in connection with me, those attacks ceased. There were two or three occasions on which reporters got in items that had no business to be there, and I took pains to go and remonstrate, and I was assured that one or two of the reporters had been dismissed, and that that sort of thing should stop, and I think it did stop. Therefore, the statement that the Republican continued hostile to the prosecution is not true. In point of fact, however, when that paper was bought there were certain gentlemen connected with it who, from circumstances amounting to contract practically, could not be dropped from it directly, and they remained, and they undoubtedly had more or less sympathy with the defendants, especially with Brady, who had owned the paper while they were connected with it. But I am confident that the statement that there was anything in the Republican attacking the prosecution after we bought it is untrue. Mr. Walsh says that I had negotiations with

Brady for the purchase of that paper. I had no negotiations with Brady. I never spoke to Brady in my life in any manner; the only time I ever saw him was when I was prosecuting him. I had no negotiations with him, and nothing to do with him.

Mr. Walsh says that I attacked *him* publicly. Now that is not true. He based the statement upon an interview alleged to have been published, and which I have no doubt was published, in some of the Western papers. If that interview occurred, as I think it did, it is not correctly stated, and the matter was subsequently explained to Mr. Walsh, apparently to his satisfaction. A reporter came to see me about the cases, and wanted to know about route 40101 and why it was not taken up in preference to the Dorsey case. I told him the difficulty was one not of the individual, but of the nature of the case; that the case of route 40101 depended, as I thought (and as I think I shall show the committee before I get through), upon the evidence of a single witness, and that if that witness went away, or died, or dropped out in any way, of course the case would be gone. I was particular to say to the reporter that I was speaking of a general theory—that I was speaking, not with reference to any particular individual, but upon the general theory that it is unwise to have a case depending upon a single witness, and that I intended no reflection whatever upon Mr. Walsh. In publishing the interview, I understand that that qualification was omitted. However, the matter was subsequently stated and explained to Walsh, and we were afterwards on the best of terms, and I supposed that he understood it all, and I think he did.

Instead of my attacking Mr. Walsh, Mr. Walsh certainly, as I think the committee will have no question, did attack me, and attack me very early. He did it by a letter to the Attorney-General, and by a letter to the President, and in connection with that I call your attention to some correspondence not hitherto produced. On the 12th of November, 1882, I received from Mr. Brewster a letter, as follows:

DEPARTMENT OF JUSTICE,
Washington, November 12, 1882.

DEAR SIR: With this I inclose to you copy of a letter received from Mr. John Walsh, which I think should be brought to your knowledge.

Very respectfully,

BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
Special Counsel, &c., 150 Broadway, New York, N. Y.

On November 30 Mr. Brewster wrote me another letter, which I now produce. After referring to transmitting certain other papers, and to a conversation with the Postmaster-General (in which the Postmaster-General, let me say, referred to the matter of the proposed arbitration—it is important only as showing one step in the progress of all that matter), he goes on to say:

I also, some week or so ago, sent to you a copy of a letter from —— Walsh transmitted to me. I have not heard from you since then. Will you please give me a reply to it. With this I also send you an interview published by Mr. Walsh in the newspaper since he sent that letter to me, and since I sent it to you. They should both go together, it seems to me. Much that is complained of by Mr. Walsh in that letter has already been disposed of. That the complaints were groundless at the time the action of this Department and of the President has since shown.

The Saulsbury matter and the Kellogg matter are both of great importance, and I desire you to give them both your attention, and furnish me with a reply that will make a proper record upon the subject for the Department and for yourself, so that hereafter if it is made the subject of public complaint or official inquiry the records

of the Department will show exactly the real facts of the case, free from those clouded misrepresentations and misinterpretations of official and personal action.

I am, sir, with great respect, your obedient servant,

BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
*Special Counsel for the United States in the Star Route Trials,
No. 160 Broadway, New York City.*

Thereupon, on the 5th of December, I replied to Mr. Brewster by a letter, which I have here, and which I will read as going to show whether I was fair in my treatment of Mr. Walsh:

WASHINGTON, December 5, 1882.

DEAR SIR: Your letter of 30th contains the first intimation I have received that any answer was desired to your favor referring to me the letter of John A. Walsh, complaining of the action of the grand jury recently discharged. I understood it to have been referred to me—by copy—only for my information, as has been done in many other cases.

As you know, I think the grand jury should have found an indictment. At the same time, it was their right to pass upon the evidence. It was possible for them to accept as true all that Mr. Walsh said, and still to think that a link was missing, and giving to the question of indicting a Senator of the United States, sensibly or insensibly, more of scrutiny than they would have given to the case of one less prominent, to refuse to find a bill. This result might have been in a measure precipitated by the fact that Mr. Walsh made manifest his distrust of the grand jury and gave his evidence in a manner which did not secure for it the full weight it was, in my opinion, entitled to.

As to the introduction to the grand jury room of the book referred to by Mr. Walsh, I am unable to agree with him as to its legality. From what I saw while waiting in the anteroom, I am satisfied that the grand jury sent for it to the district attorney, and that the latter procured it from the Congressional Library. At any rate the copy produced bore the stamp of that library. The sending for the book undoubtedly indicated information given to or possessed by some of the jury. It probably indicated bias against Mr. Walsh, but in view of the right of the grand jury to seek its evidence within broad limits, it does not seem to me that the proceeding was illegal.

As to the interview with Mr. Walsh, of which you inclose me a copy, I can only say that I do not think it calls for answer, and if it did I should not think it wise to answer it. Mr. Walsh is an important witness for the Government, though not so important as he was. He has been made to feel the hostility of those against whom he has testified. He feels impatient, injured. In that frame of mind he says things that do injustice to others, and which he will soon be prompt to admit are unjust. Under these circumstances, I do not think it wise to have any controversy or to aggravate feelings already disturbed.

Your obedient servant,

GEORGE BLISS,
Assistant Attorney.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

On December 29 Mr. Brewster sent me the letter which Mr. Walsh had written to the President. I have Mr. Brewster's letter here, in which he asked me to reply to Walsh's letter, or to make such remarks upon it as I chose. That letter to the President Mr. Walsh has produced here, I understand, though it has not yet appeared in your record. Walsh's letter is dated December 18, 1882. I have a copy of it, but of course I do not care to repeat it in your record.

The CHAIRMAN. No; that is unnecessary. It is in our record.

The WITNESS. Yes; so I understand. In reply, on the 2d of January, 1883, I wrote Mr. Brewster a letter, of which I produce a copy, as follows:

NEW YORK, January 2, 1883.

DEAR SIR: I received, just as I was leaving Washington, on Friday, your favor of the 27th ultimo, transmitting a copy of a letter from John A. Walsh to the President.

Mr. Walsh states that he addresses the President because you have not answered

a letter which he addressed to you in November. This last-mentioned letter was referred by you to me, and I beg to remind you of the observations which I made upon it in a letter I addressed to you at that time.

Mr. Walsh was, at the last trial of the case of *United States v. Brady and others*, an important witness for the Government. He has come to regard himself, as his letter to the President shows, as an essential witness, and disposed to dictate to those in charge of the prosecution what they shall do and how they shall do it, and to set up his own views both of law and expediency as better than those of the gentlemen who are charged with the responsibility of the "star-route cases." He regards his own conduct and character as so pure that he can make charges against them, not only without evidence, but in the face of the very evidence to which he refers.

He has been subjected to much abuse from the defendants in the case on trial and their friends, and therefore some irritation on his part would be excusable, though it hardly justifies him in attacking those who have defended him. There is much in his letter which induces me to believe that he has fallen under the influence of those interested against the Government who are catering to his vanity and desire for revenge, or holding out to him the hope of pecuniary advantage. Bearing in mind these circumstances, I refrain from characterizing the letter as a whole in the terms which it would seem to deserve at my hands. While for reasons not necessary to be gone into here, the Government is not in a position where the testimony of Mr. Walsh would be as important as it undoubtedly was on the former trial, yet he is still a desirable witness, and I do not feel that I ought by any expression of my personal feelings either to tend to discredit him as a witness, or to intensify his present position of dissatisfaction with those whom he claims a desire to aid. But at the same time I reserve the right to make further reply when no possible harm can come to the prosecution by my so doing.

Mr. Walsh expresses his personal distrust of the sincerity of the prosecutors and his dissent from the judgment exercised by them in selecting the particular case to be first tried. Without pausing here to suggest that he is not in a position to judge as to either fact, and not by education or experience competent to judge, I may observe that after he testified on the last trial he voluntarily stated to me that though he had at one time doubted whether we had selected wisely, he was then thoroughly convinced that we were right.

Mr. Walsh complains that there was some conspiracy or contrivance by which a former grand jury failed to find an indictment upon his testimony. He makes a special and gratuitous fling at some unnamed member of the President's Cabinet, but does not dare to name him or to assert what he did. Indeed, he refers to the matter only as a report or rumor. The only act of any one indicated by him is the introduction into the grand jury room of a book purporting to contain evidence given before a committee of the Senate.

As to the latter, I have already expressed my views in my letter in reply to Mr. Walsh's communication to you, to which I have referred. The book was, as I infer, sent for by the grand jury. They had, as I think, a right so to do, but whether this was so or not, there is no evidence that it was anything but an error of judgment, and certainly not a transaction which should lead to a general denunciation, not only of the grand jury, but of the prosecution, and of you, because you do not proceed to investigate and indict the grand jury or others.

A brief statement of the history of matters will serve to dispose of much of what Mr. Walsh says:

Mr. Walsh was a witness before one grand jury in May or June. Upon his testimony and that of several witnesses summoned from Texas, James B. Price and Thomas J. Brady were indicted for conspiracy in connection with certain mail routes in Texas. In the course of that examination before the grand jury Mr. Walsh, in referring to certain post-office drafts, casually mentioned that they were brought to him by a Mr. Kellogg, and it was only accidentally that it was brought out whom he meant. Neither I nor any one representing the Government had up to that time ever heard the name of Mr. Kellogg in connection with the matter, and he was not then, as I understood it, mentioned as a person whose connection with it was in any sense criminal. Some days after the grand jury had adjourned I heard reports, obviously set afloat by Walsh, that the case had not been pushed before the grand jury as against Senator Kellogg. I at once stated to my associate counsel that the grand jury must be recalled. They concurred with me, though I am under the impression that they did not attach so much importance to it as I did, for the reason that it was my action or failure to act, which the rumors impugned. I applied to Judge Wylie to reconvene the grand jury. He hesitated; in fact, intimated that he should decline, whereupon I stated the facts to him in detail and begged him as a matter of personal justice, if such a thing was proper to be considered, to reconvene the grand jury. He did reconvene it. Mr. Walsh was put before it as a witness. On the first day he testified only partially, as he afterwards stated to me, because he did not mean to tell anything more than he thought was necessary to secure an indictment.

What he stated on the first day was calculated to raise suspicions against Mr. Kellogg, but not much more. For the purpose of procuring more testimony and enabling or inducing him to produce some corroborative proof, I induced the grand jury to adjourn to another day. On that day Mr. Walsh gave much more testimony. He produced some papers. I questioned him carefully and in detail, until he stated that he had told all he knew. He made a much stronger case against Mr. Kellogg than the previous day, a case in which, if I had been a grand juror, I think I should have voted to find an indictment against Mr. Kellogg. At the same time there was a gap left in the case as disclosed by his testimony, for though it showed Mr. Kellogg's connection with and possession of the postal drafts which was alleged to have been given in pursuance of the conspiracy; though Mr. Kellogg was shown to have interested himself to prevent investigation; and though there were other things indicating Mr. Kellogg's wrongful connection with the matter, still a conscientious grand juror could, I think, be of the opinion that the evidence was not sufficient as to Mr. Kellogg to show criminality.

Mr. Walsh did not on either day give his testimony in a manner to inspire entire confidence, and there were some improbabilities in some portions of it. It was a case where two men equally honest might differ. It was, moreover, a case where if an indictment had been found there could have been no conviction without further testimony. The grand jury in fact refused to find a bill. They did so, as I have been informed, by a vote substantially unanimous. Whether this conclusion was wrong or right, it is certain that the fact that the conclusion was arrived at, even in connection with the introduction into the grand jury room of the book I have referred to, does not alone constitute ground for charges of criminality against the grand jury. Nor is it necessary to assume, as Mr. Walsh does, that because the grand jury did not indict they did not believe him.

Mr. Walsh is, however, in no position to complain of the action of the Government, for he is at this moment evading the service of subpoena on him requiring him to appear and testify before a grand jury, to which the Government is prepared to present evidence to sustain Mr. Walsh, evidence procured by the Government after great trouble. Mr. Walsh knows that we desire his presence; he knows for what purpose we desire it, and he knows that the confirmatory evidence the Government has is the precise evidence he desired should be obtained, and yet he evades service, and sends word to us that we can serve him if we can find him, and that he will come to Washington only when he gets ready. For ten days we have had men watching for him in two cities. We know that he has received our letters. We know that he has seen his counsel to whom we have stated what we desired, and he refuses to appear. He prefers to write a long letter complaining of the Government for not doing the very thing it is seeking to do, and to do which it desires from him only the assistance which every good citizen owes to his Government. Judging by past experience he will soon give his entire correspondence to the public, and thereby aid them whom he claims to be seeking to punish. I trust that he may not so do in such a manner as to compel the Government to make public the real facts of the case, for that would go far to destroy the effect of the evidence we hope to obtain from him, for the human mind is so made up that a witness who so acts does not, even when he is telling the undoubted truth, receive the same credence as he would if he had come forward frankly and promptly.

I do not feel called upon here to refer in detail to Mr. Walsh's insinuations as to the charges against other persons claimed to have been implicated in the star-route frauds. The action of counsel in these cases has been fully reported to and approved to you. There is much more reason to believe that Mr. Walsh is at the present moment engaged with others formerly connected with the prosecution in a scheme to procure money from these alleged criminals than there is to distrust the sincerity or judgment of any one now concerned in the prosecution.

Mr. Walsh's statement as to what occurred on the former trial, as to my alleged neglect to urge the case against Mr. S. W. Dorsey, as to my being rebuked by other counsel, and as to the action of the court, is shown by the record to be thoroughly false.

For the reasons already suggested, you will perceive that it is very desirable that nothing that Mr. Walsh shall say or do should lead to a publication of this letter until after the pending trial is finished, unless his future course shall be such as to lead counsel to consider it unsafe to call him as a witness.

Your obedient servant,

GEORGE BLISS,
Special Assistant District Attorney.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

In my previous testimony here I expressed the belief or the recollection that Mr. Walsh's testimony before the grand jury on the first day

was full, and that he did not add much to it on the second day. I see by this letter, which was written when the matter was, of course, fresh in my mind, that I was wrong about that, and I see by Mr. Walsh's testimony that he states that he did not testify fully the first day. I submit that it is evident from that letter that I was sufficiently careful about not undertaking to discredit Mr. Walsh; but he says that I ought to have selected route No. 40101 for prosecution instead of the Dorsey case——

Mr. STEWART (interposing). I do not suppose that it is necessary to answer that expression of opinion.

The WITNESS. I am not going into that in detail. After the expression of opinion by Mr. Merrick on that subject, I do not think it is necessary for me to go into it in detail. What I do desire in that connection is to show something that every member of the committee will see is important. Walsh refers to the fact that Hinds was an important witness, and that Hinds could have testified in that case to important transactions with Brady, and he says that he (Walsh) would have come in simply to confirm the statements of Hinds. Now, in point of fact, as to the prosecution of Hinds, and his transactions with Brady, the statute of limitations had run against them. Then, in the second place, I have here the affidavit of Hinds, taken by Mr. Woodward, in which it appears that Hinds had no personal knowledge of the payment of money to Brady, or of any corrupt negotiations on Brady's part. There was a Mr. Brown that Hinds had negotiations with, and to whom he paid money, and part of Walsh's money went to Brown, but Hinds never was permitted to go any further than the outer door of Brady's room. Brown went in with a commission to accomplish certain things, but he did not accomplish them. He accomplished them in part, but not in full. However, the point I want to call attention to here is the statement of Hinds, to whom Walsh refers as an important witness in that case. This is an affidavit which we had before us at the time we made our decision, and I want to refer to this part of it as showing where that case would have brought us. Mr. Hinds charges distinctly in his affidavit that Walsh was a conspirator with Brady, and that the relations between Walsh and Brady were corrupt. Moreover, Mr. Hinds puts into his affidavit this passage:

After the departure of Brown, Walsh said to Hinds (who is making the affidavit), "When you have any more of the light work to do, let me know. I can do as much with Brady as any man." Hinds replied that he wanted no one's assistance in that kind of business. This occurred October 3, 1878.

Therefore, if we had gone on with that route, No. 40101, relying on Hinds, we should have had, in the first place, a witness who was accusing Walsh of conspiracy, and who was testifying that Walsh had himself used language which implied that his relations to Mr. Brady were not as innocent as he wishes you gentlemen to infer they were. Mr. Hinds made a second affidavit, which related to the route from Las Vegas to Albuquerque, which covered part of the same general ground. Therefore we did not go in on route 40101. Mr. Walsh leaves it in his testimony to be inferred, though perhaps he does not distinctly say, that his being made a witness in behalf of the Government was consequent on his bringing his civil suit against Brady. The little difficulty about that is that he did not bring his suit until a year after he was made a witness. The fact is that all through the summer of 1881, before I came into the case, I have Mr. Woodward's authority for saying that Walsh was dropping in little pieces of information, and giving advice. Mr. Woodward naturally came upon him in the case, because his name ap-

peared on the Price drafts, indorsing them, and everybody whose name appeared on those or any of the papers was to be looked up, as far as possible.

By the CHAIRMAN :

Q. Referring to Hinds's statement, is it to be inferred, from what you have said in regard to it, that Hinds would have testified that the transaction by which expedition was obtained on route 40101 was corrupt?—A. No, sir; he would have testified to this: He would have testified to payments to S. P. Brown, and to a statement by Brown of his dividing with Brady; and obviously the idea thrown out in the whole course of the affair indicated that the money that Brown was getting from McDonough and Kirk and Walsh was corruptly used. And there were some singular transactions; as, for instance, Mr. Brown going with Hinds to Brady's office, Hinds sitting in an outer room, and Brown going in and coming out and saying that there would be an order for expedition that afternoon, and so on. The orders, however, did not come in the precise form in which they were bargained for. Originally they were \$20,000 or \$30,000 less, and Brown had to go back and try to do something more; but he could not at any time get the compensation up to the point that the original arrangement with Walsh and the others had contemplated. If you ask me my opinion, assuming that Hinds's statement of what occurred with Brown is correct, I should say that if you were dealing with a man of unimpeachable integrity as Postmaster-General, or Second Assistant Postmaster-General, there was nothing in the evidence on which you could come to any other conclusion than that Brown had used his intimacy with Brady to get some money for himself, and that the orders were obtained in the proper way. But when we came to deal with the condition of things which was then and there existing in the Department, the impression on my mind was that the orders on route No. 40101 had been obtained corruptly.

Q. Those and the subsequent orders after Walsh became the contractor?—A. No, sir; I am talking now about the previous orders. As to the orders after Walsh became a contractor, Mr. Walsh originally said to us that his relations to the matter were simply those of a man who had loaned money, and that he was entirely innocent of any wrongdoing. I obtained by accident confirmatory evidence of the fact of the loan—I say by accident, but it was not by accident; it was my own doing. Walsh had stated that he had paid some money to Brady at the office of Hatch & Foote, in New York; that he had drawn the bills from Winslow, Lanier & Co., and had drawn a larger amount from which he had taken the money loaned. I subpoenaed Hatch & Foote, and required them to send their books here and to produce the account. They sent their books over with directions to the clerk who brought them not to let them be seen by anybody until they were produced on the stand. However, I got access to the books before he went on the stand, and I found on the precise day mentioned an entry in Brady's account of the \$10,000 borrowed from Walsh, and a memorandum showing that it was paid in cash—not an absolute statement that it was paid in cash, but it was marked "C," and the evidence was that "C" was used to mark cases in which the money was paid in cash, as it was rather an unusual thing in a New York broker's office to have a sum of that kind paid in money. So that that evidence seemed to confirm Walsh's statement. But Walsh's testimony on the trial, particularly as to the matter which seems to have affected Governor Stewart's mind somewhat here, his story of the stealing of the notes by Brady, subjected him to con-

siderable suspicion and criticism as to whether it was true, and if you are asking my opinion about it, my opinion is that Walsh had the money transactions with Brady that he said he had, but I believe they were not loans; I believe they were corrupt; I believe the money was paid for the purpose of securing expedition on route 40101, and probably on some other routes. Now, in that connection I desire to submit some testimony which I have in my possession. I referred to it when I was before the committee the other day, and have had it in my possession all the time, but I confess that I had not read it over with much care until the night before last. The evidence I refer to is the statement which Mr. Walsh mentions as having been made by him, and taken down by Mr. Gibson, and which I told you Mr. Gibson produced at Long Branch when we went there on the 14th of September, 1881. The paper is entirely in Mr. Gibson's handwriting, except as I shall hereafter state. The statement is a long one. It goes over Mr. Walsh's relations to route No. 40101, to Mr. Hinds, and to the other parties. Mr. Gibson, having prepared it, gave it to me, and I had Mr. Walsh come to my room at the Arlington and take up this paper and go through it with me. That is my present recollection. It may be, however, that Gibson gave it to Walsh, and that Walsh brought it to me. However, the important point here is that the paper is altered in the handwriting of Walsh himself all the way through. For instance, on page 33 this is added: "This impression is based on what Hinds has told W." That is in Walsh's handwriting.

Q. That is Walsh's statement from which you are reading?—A. It is Gibson's statement of what Walsh told him, taken down by Gibson and then given to Walsh and corrected by him.

Q. Revised?—A. Revised. But it went further than ordinary revision. After he had made these corrections he came to my room and sat down with me, and we spent several hours going over the statement. I was pretty green in post-office matters then (this was on the 28th of September, 1881), and I did not take in all the points readily. I did not understand, for instance, the matter of subcontracts. I had the whole terminology to learn. As we went along and read the paper we stopped, and I got explanations and made notes on the margin. Here, for instance, with reference to some paper, I have written on the margin "Walsh has it," and all the way through there are such memoranda made by me. Then at the end comes this: "Read to Walsh at the Arlington Hotel, and agreed to as corrected. September 28.—GEORGE BLISS." Therefore you see that Walsh went over that paper with unusual care. Now, bearing that fact in mind, I call your attention to some of the contents of the paper. The whole paper is, of course, at the committee's service, but I want to read to you Walsh's statement then and there made as to his transactions with Brady. As I read it you will see that there are no notes mentioned as having been given by Brady, and that there is no mention of the grabbing of notes by Brady—nothing of that kind—and I think it can now be shown that those notes did not exist, even in Walsh's mind, until towards the 1st of May, 1882. I read now an extract from this statement of Walsh. He says:

Previous to this Brady had borrowed at different times large sums of money from Walsh, representing to him that he was in heavy stock transactions and needed money to help him along; that he would pay him back at the proper time. Brady seemed to look upon Walsh as a veritable bonanza, from which he could take out money at any time. Walsh advanced the money to Buell.

He then goes on and gives the dates of the loans of money by him to Brady. Those dates do not correspond with his evidence given on the

trial. They correspond nearly with the dates in the bill of particulars that he had put in before the trial in his suit here, and with an affidavit that he had made in New York, although those two do not entirely agree. They correspond nearly with that bill of particulars, the one he stated here that there was a correction of afterwards. I mention this merely as showing that on the 28th of September, 1881, that same error—if it was an error—in the dates and amounts advanced by Walsh to Brady existed. He goes on, after stating the amounts of money, and referring to the Congressional investigation, to recite some other matters, and then comes down to this :

After the investigation in Congress, Walsh asked Brady for a settlement. Brady remonstrated and acted very independently ; asked him if he thought all that had been done for him was for love. * * * Walsh replied that he thought he had not got anything out of the Department that had not cost him a great deal of money ; that he had got into the business by discounting the drafts of McDonough and Fisher ; * * that he had found Mr. Hinds had more influence in the Department than he had, and had given trouble and annoyance ; that Mr. Fisher had found means of so influencing the Sixth Auditor's Office that, notwithstanding the drafts which Fisher had given him, which were on file, Mr. Fisher had been enabled to draw the money. U. E. Fisher tells about this in his affidavit made June 9, 1881. * * Walsh further stated to Brady that he would have stopped long ago, before his advances to McDonough and Fisher, if Mr. Brady had not assured him that their service would be increased, and especially on 40101. And generally there was a big row between Brady and Walsh. Brady, however, at this time or about this time, gave Walsh a payment on the money borrowed, two drafts given by Price on route No. 31120, Indianola to Corpus Christi. These drafts were drawn to the order of Price, and indorsed by Price for the sum of \$1,250 each.

Then comes a passage stricken out by Walsh, in his own handwriting, on page 52, and on asking him why he had struck it out he replied, according to a memorandum made by me at the time, "Struck out because only an impression." That was as to how Brady got those two Indianola drafts, but I call the attention of the committee to the fact that although it is stated that there was a row between Walsh and Brady, there is no mention of the stealing of any notes by Brady, or of the existence of any notes of Brady's to Walsh, while there is the direct and precise statement that at or about that time Mr. Brady made a payment to Walsh on account, which is certainly inconsistent with the story which Walsh has told to this committee.

There is more here that I might read, but I do not care to go into it in this connection. I will call your attention, however, to another very extraordinary fact, and that is one which had, until night before last, entirely escaped my notice, because when I read this paper originally the Price matters were not under consideration. You will see that this is important in connection with the case of Mr. Kellogg. Mr. Walsh has sworn here, and Mr. Ker says he stated before the grand jury, that the drafts on which Walsh's name appeared, on the San Antonio and Corpus Christi route, the \$20,000 or the \$25,000 in drafts and the \$5,000 note, were brought to him by Kellogg from Price, and that Kellogg afterwards received some of the proceeds of them. Now, in this statement Walsh says that those post-office drafts and that note were received by him, not from Kellogg, but from Brady. Here is what he says :

Walsh at various times had pressed Brady for a settlement. Brady put him off from time to time, but finally on one occasion when Walsh had been more persistent than usual, Brady said that he had no money, but that he had drafts, and that he would give them to him on account, and thereupon he turned over to Walsh five drafts drawn by J. B. Price, and some Shakspeare mining stock.

As bearing upon Walsh's testimony and credibility in connection with the whole matter, and as bearing upon the evidence in the Kellogg case, this statement of Walsh's is, I submit, pretty important.

Q. Did he swear to that statement?—A. He did not swear to it, but it was all read over to him, as I have told you, and he made the corrections as we went along.

Q. That was his statement of what his evidence would be if he was called as a witness?—A. Yes. Now let me say that when I interjected into Mr. Merrick's statement something about Mr. Kellogg's admission to me, I think I probably stated it correctly, but the newspapers do not report it correctly, or at any rate it is given more briefly than I desire to give it, so I will restate it now: Mr. Kellogg came to me with the letter of the Attorney-General, which I produced here the other day, and which he told me he had obtained from the Attorney-General at Wormley's; he said he had found him in his room, and he made some other statement, which I will not go into now. But he brought me this letter:

MY DEAR Mr. BLISS:
See Mr. Kellogg, and oblige
Your friend,

B. H. BREWSTER.

Mr. Kellogg came to me at my room at the Arlington, and I think that was the only time he ever called on me, except one visit in New York which he made last winter, which also was made by direction of the Attorney-General, and which I at once reported to the Attorney-General. My recollection is that he came with this letter after the grand jury had been directed to reconvene (as the expression is), which would make it the second week in July, 1882. I was a good deal embarrassed. I did not want to be talking with a man that I was going before the grand jury against, but here was a letter from my superior, requesting me to see him, and I did, but I endeavored to get rid of him as soon as I could, and did not prolong the conversation by asking him any questions, except, possibly, a single one. In that conversation Mr. Kellogg insisted upon talking about the matter to some extent. He said, in substance, that he and Walsh had had rooms at the same hotel—I think he said they were connecting or adjoining, or at any rate rooms close by each other. I think he said that Price was going out of town, and that Walsh was out of town, and that before Price went away he brought to him (Kellogg) a large envelope for Walsh, and asked him to give it to Walsh, and that he said he would. Price, he said, brought the envelope to him, and he (Kellogg) promised to give it to Walsh, and he said he did not know what was in that envelope. That was the only point where I at all prolonged the conversation, as I recollect, by asking a question. I said to him something like this: "Why, Mr. Kellogg, you must have known what was in that envelope;" or, "Didn't he state what was in the envelope?" I may have put it negatively, one way or the other. I put that question because, before I put that question, Mr. Kellogg had gone on to say to me that he did subsequently receive from Walsh some money, which he used for political purposes, and I said to him, "Didn't you know," or, "Didn't you state" (some expression of that sort) "what was in the envelope?" He claimed that he did not; "but," said he, "Walsh says that the money was out of the proceeds of those drafts." Well, I undertook to ask him how he came to get the money, but I saw that I was prolonging a conversation that I did not want prolonged, so I stopped. In the mean time, however, he told me, in the course of the conversation, that while he (Kellogg) was governor of Louisiana, a long time prior to this, Price had contributed toward political expenses, and,

as I recollect it, and as I stated it the other day, that there had been an application on his part to Price for money for politics or something of that sort. At any rate, he said to me that he took the envelope and gave it to Walsh, and that Walsh claimed that it contained the drafts, and Mr. Kellogg did not seem to have any doubt that it did contain the drafts. He claimed that in that transaction he was a mere messenger, but admitted that after that time he received money from Walsh, which Walsh said was part of the proceeds of those drafts.

By Mr. STEWART :

Q. Had you seen those drafts at the time you had this conversation with Mr. Kellogg?—A. I think I must have seen them.

Q. Does not Mr. Kellogg's name appear upon them?—A. No; his name does not appear on any draft. Kellogg's name appears on no Government paper whatever. His name does not appear upon the files of the Department anywhere, except on a recommendation of expedition. Mr. Ker will agree with me in that, I think.

By the CHAIRMAN :

Q. The place where Kellogg's name appears is on the checks?—A. I am going to have something to say about that directly.

By Mr. VAN ALSTYNE :

Q. Did Mr. Kellogg explain to you to what special political interests this money that he received was applied?—A. Not at all.

Q. He did not tell you that it was used to pay the debt that was contracted by the returning board of Louisiana in 1876?—A. I have already denied that once, and I deny it now again. He did not say anything of the kind. The fact is that Mr. Kellogg, if I had let him, would have talked all night.

Q. Why did you not let him go on?—A. Simply because I considered myself in a very embarrassing position, and I did not want to talk to him about it.

Q. There is no harm in being a reservoir, is there?—A. Yes, sir: there is harm in being a reservoir if you are liable to be tapped. Mr. Kellogg undertook to account to me for his getting that money, but I would not let him go on, and he did not go on. I confess that I believed thoroughly at that time that the money was money that he had got from the proceeds of those drafts, and I could not resist feeling that he must have known what he had in that envelope.

By Mr. MILLIKEN :

Q. Did you *know* anything about it, really?—A. No, sir; nothing whatever, and I got rid of that interview as quickly as I could.

Q. Was your belief founded upon any evidence, or only upon a general impression?—A. My belief was founded on the statements that I understood that Walsh had made, and on the fact that here was a case in which Mr. Kellogg substantially admitted that he carried the drafts to Walsh (he said as a messenger), and that not long afterwards he got money from Walsh.

By Mr. STEWART :

Q. Had you at that time seen the checks which Walsh gave Kellogg, and on which Kellogg's indorsement appears?—A. My impression is that I had not—that I knew of them, but had not then seen them.

Q. Is there any allusion, in Walsh's statement, to those checks?—A. No. This statement of Walsh does not go into the question of Kellogg at all.

By Mr. VAN ALSTYNE :

Q. Did Kellogg explain the motive of his coming to you and having that interview?—A. His idea in coming to me was to convince me that he had not done anything wrong. I remember that I said to him, "Mr. Kellogg, you need not waste your time in trying to convince me of that. I have not anything to do with that. I am directed to go on with this case, and I am going on with it; you must convince the Attorney-General, if there is to be any interference with it; and I will say further, that as the matter has become in one sense public property, I think it is wiser for you not to attempt to convince anybody out of court."

By Mr. STEWART :

Q. Do you know why the Attorney-General sent him to you. Was he sick at that time?—A. I know nothing, sir, except what was stated to me indirectly as to the circumstances under which that letter of the Attorney-General was written. I understand that there has been an interview published in a paper as to the circumstances under which it was written, and I prefer to say nothing about it.

Q. Did any messenger come to you from the Attorney-General before the interview with Mr. Kellogg, and after you received that letter?—A. No; I do not remember anything of the kind.

Q. Did Mr. Brewster Cameron come to you after the Attorney-General wrote the letter and request you not to have an interview with Kellogg?—A. No, sir.

Q. You did not receive any such request?—A. No, sir.

Q. No such request reached you before you had the interview?—A. No, sir. This is the first suggestion I ever heard of anything of the kind.

By Mr. VAN ALSTYNE :

Q. Did you call the Attorney-General's attention to the letter and to the fact that you had received this letter at the hands of Kellogg?—A. Yes, sir; I subsequently spoke of it to the Attorney-General.

Q. What did he say?—A. He did not say anything. He treated it as a matter of course. He knew that he had written such a letter. I told him that Kellogg had admitted to me the receipt of money from Walsh, and I said to him as I said to the other counsel when we were talking about the Kellogg case from time to time, that I thought that indicated what would be Kellogg's defense—that he would claim that he got the money from Price for political purposes.

Q. Did the Attorney-General make any explanation of the letter or of his motive in sending it?—A. None, whatever. It did not seem to call for any. I told him that I had seen Mr. Kellogg on his letter, and that was all.

Mr. STEWART. The Attorney-General can explain that.

By Mr. STEWART :

Q. I ask you whether at the time of this interview with Mr. Kellogg you had seen these checks that bear Kellogg's indorsement?—A. I think not.

Q. If so, did Mr. Kellogg offer any explanation?—A. I am quite con-

fidant that he did not. That would only have come about by my asking him questions, and I was anxious to get him out of the room.

Q. Was this after Kellogg was indicted?—A. No, sir; it was when the grand jury was about to be reconvened.

Q. Were you present when Walsh appeared first before the grand jury? If so, state whether at that time Mr. Walsh exhibited to the grand jury or to you, or whether you knew that he had in his possession those checks.—A. As I have stated, the reference to Mr. Kellogg by Mr. Walsh before the first grand jury was entirely casual as far as I know. Mr. Walsh states in his testimony (page 478 of your record) that up to that time he had not talked to the counsel and that he had not shown them his papers. He claims that I knew the facts, but when he is asked how, he says I must have known them from Mr. MacVeagh. Now, Mr. MacVeagh never talked with me about Kellogg in any manner, and I do not know to-day what Mr. MacVeagh knows about Kellogg, except that I know from his testimony here and from prior information that he considered that Kellogg was in some way wrongly involved in these star-route matters. Mr. Walsh states (page 478) that he read to the grand jury only one paper. In his evidence he mixes up what occurred before different grand juries, because he locates before the Mitchell grand jury the alleged conversation about indicting a United States Senator, when there was no pretence that that occurred until later.

When I was here before I could not tell what papers Mr. Walsh had produced before the first grand jury, except that I was quite confident that he did not produce many. From a memorandum brief which I made at that time, similar to those that were submitted in the Venita and Las Vegas case, and which bears on the back of it the indorsement of the grand jury that a bill was found—from that brief I have ascertained what papers Mr. Walsh did produce before that first grand jury. He produced, in the first place, the letter that he has spoken of, and that has been generally spoken of, as the “ginger letter” from Brady. In the second place, he produced the letter making the appointment for the meeting with Brady, stating that there would be a fire at such a time in such a room, and proposing a meeting. Then he produced the envelope of that letter. He also produced a letter from J. B. Price, as follows. When he was asked about the Price draft, he brought this letter out:

ASTOR HOUSE, *New York*, May 18, 1881.

DEAR SIR: Please send me a statement showing date, amount, number of route, &c., of all notes and drafts of mine discounted by you; also the discount, or shave, taken off. I have lost or mislaid my cash book, and must rely on you to give me facts in order to remedy loss and rewrite my book.

Respectfully, yours,

J. B. PRICE,

Mr. JOHN WALSH, *Washington, D. C.*

Address care Real Estate Trust Company, No. 115 Bowery, N. Y.

P. S.—I must have a specific answer to questions, as I must know amounts, dates, &c.

He claimed that Price had become alarmed at the transactions by which he, Walsh, had got the drafts, and wanted to represent it as an ordinary discount, but he stated that he had never discounted any drafts for Price, and in that connection he produced this letter. I think, but will not be positive, that he produced a letter from a man named Peterson, dated Washington, D. C., September 29, 1881, as follows:

WASHINGTON, D. C., *September 29*, 1881.

DEAR SIR: The consideration for which I gave you drafts on route No. 30162, Louisiana, having ceased, the expedition having been cut off, and the original schedule hav-

ing been restored, I have to request that you will withdraw the drafts on file and return them to me.

Your obedient servant,

B. H. PETERSON.

JOHN A. WALSH, Esq.,
Washington, D. C.

My recollection is that he produced that letter, and yet I cannot see in what precise connection he did produce it. He produced no other papers—no drafts, no checks, no other papers. We had the postal drafts there, of course, but he produced nothing else. He produced nothing with Kellogg's name on it in any manner.

By Mr. STEWART:

Q. Was that the occasion on which Walsh first appeared before the grand jury?—A. No.

Q. You have said that you were able to tell what papers he did produce by the brief that you made at that time.—A. Yes, sir; I have got that brief here.

Q. Does that brief contain a notice of all the papers that were produced?—A. It contains a statement of what evidence Walsh gave and, in general terms, of what papers he produced. I am able to state distinctly, after reading this brief, that before the first grand jury Mr. Walsh produced no paper with Kellogg's name upon it; no check and no paper relating to Kellogg.

Q. When was that brief made?—A. The evening of the day on which Walsh was before the grand jury, and it was given to the grand jury, and they indorsed the finding of the indictment on it.

By the CHAIRMAN:

Q. The indictment against Brady and Price?—A. The indictment against Brady and Price. We were not seeking the indictment of Kellogg then. My impression is that that commenced, as many of them did, "Indictment sought against Thomas J. Brady and James B. Price."

By Mr. STEWART:

Q. What was the date of that first grand jury?—A. It must have been in June, 1882, I should think, because the reconvened grand jury acted on the 11th and 12th, or on the 12th and 13th of July.

Q. At that time you had no understanding from anything that was said, or from anything that he displayed, that Kellogg was implicated?—A. No, sir, I did not dream of it; and I think that down to the time of the reconvening of the second grand jury I never had seen any of the papers in that case. Consequent upon the reconvening of the grand jury I had been told by Mr. Merrick, perhaps by Mr. Ker also, about the papers, which were subsequently produced, but my impression is that I had never seen them. Walsh was irritated with me, and my impression is that I never saw the papers until I saw them for the first time in the grand jury room.

By the CHAIRMAN:

Q. Did not Walsh testify that the evidence against Kellogg was stronger before the Mitchell grand jury than before the other?—A. I do not remember whether he did or not; but, if he did, he stated what was not so. There was not any evidence presented against Kellogg before the first grand jury. The complaint which Walsh makes is that I did not bring it out. The fact is I did not know of its existence.

By Mr. STEWART:

Q. The date of that statement that Gibson drew up is in the September following, is it not?—A. No, sir; the September previous.

Q. In that Walsh makes no statement about those drafts?—A. No. It is right to say, however, that in that statement he is not going into that subject; he is confining himself to route 40101 and his relations with Brady. I do not think, therefore, that any inference can be drawn from the absence of that Kellogg matter from that statement. Now, before the second grand jury, Walsh produced all the papers that I am about to specify. Let me tell you how I am able to say this. After the reconvened grand jury failed to indict, Mr. Walsh published in the New York Herald a lot of papers; I think that was on the 17th of July, 1882, and at that time I went over the statement with the papers produced, to see if he had published anything that had not gone before the grand jury, and my recollection is that I ascertained that all the papers published had gone before the grand jury, and that they were all that did go before the grand jury. On that occasion he produced first the "Ginger" letter. He produced also the letter from Brady making an appointment for a meeting. He produced the letter from Price, asking him, Walsh, to give Price a copy of his account. He produced also the letter from Peterson, I think, though as to that I have some doubt whether it was produced before the first grand jury. He produced also the following checks:

No. 151.]

JOHN A. WALSH, BANKER,
Washington, D. C., J'y 23, 1879.

Pay to the order of Shellabarger & Wilson four hundred and ninety-one $\frac{67}{100}$ dollars.
\$491.67.

J. A. WALSH.

To WINSLOW, LANIER & Co., *New York.*

(Indorsement:) Shellabarger & Wilson. Pay to the order of Riggs & Co. Pay Bank of America, New York, or order.

No. 187.]

JOHN A. WALSH, BANKER,
Washington, D. C., Oct 28, 1879.

Pay to the order of Wm. P. Kellogg five hundred dollars.
\$500.

J. A. WALSH.

To WINSLOW, LANIER & Co., *New York.*

(Indorsement:) W. P. Kellogg. Pay G. R. McGourkey, cashier, or order, collection on account of Union National Bank, Chicago. S. A. Ives, cashier.

No. 206.]

JOHN A. WALSH, BANKER,
Washington, D. C., Dec. 23, 1879.

Pay to the order of W. Pitt Kellogg two thousand dollars.
\$2,000.

J. A. WALSH.

To WINSLOW, LANIER & Co., *New York.*

(Indorsement:) Pay to the order of the National Park Bank, New York, for account of Lewis Johnson & Co., Washington, D. C. W. P. Kellogg.

No. 251.]

JOHN A. WALSH, BANKER,
Washington, D. C., May 4, 1880.

Pay to the order of W. P. Kellogg six hundred and twenty-five dollars.
\$625.

J. WALSH.

To WINSLOW, LANIER & Co.,
New York.

(Indorsement:) William P. Kellogg. Pay to the order of National Park Bank, New York, for account of Lewis Johnson & Co., Washington, D. C.

No. 268.]

[JOHN A. WALSH, BANKER,
Washington, D. C., June 28, 1880.

Pay to the order of W. P. Kellogg, esq., six hundred dollars.
\$600.

J. A. WALSH.

To WINSLOW, LANIER & Co.,
New York.

(Indorsement:) W. P. Kellogg. Pay to the order of the National Park Bank, New York, for account of Lewis Johnson & Co., Washington, D. C.

No. 211.]

JOHN A. WALSH, BANKER,
Washington, D. C., January 5, 1880.

Pay to the order of A. C. Buell, esq., seventy-five dollars.
\$75.

J. A. WALSH.

To WINSLOW, LANIER & Co.,
New York.

(Indorsement:) A. C. Buell. Pay to the order of the National Park Bank, New York, for account of Lewis Johnson & Co., Washington, D. C.

No. 214.]

JOHN A. WALSH, BANKER,
Washington, D. C., January 7, 1880.

Pay to the order of A. C. Buell one hundred and twenty-five dollars.
\$125.

J. A. WALSH.

To WINSLOW, LANIER & Co.,
New York.

(Indorsement:) A. C. Buell. Pay to the order of the National Park Bank, New York, for account of Lewis Johnson & Co., Washington, D. C.

Of course these checks and drafts I do not give from my own recollection. They are copied from the Herald statement, verified at the time by me by comparison with the papers that were before the grand jury.

He produced also the following letter:

UNITED STATES SENATE CHAMBER,
Washington, February 8, 1881.

MY DEAR WALSH: I called in your house both yesterday and to-day, and found that you had again left for New York. Evidently the "danger signals" don't amount to much in your estimation. P. was ready last week to see you as you desired, and to oblige you I took some pains to arrange so you could see him. As, however, you could see him best by staying away from him, of course you stayed. The world being an oyster, this is, of course, your policy.

Now, old fellow, as I have tried to serve you somewhat heretofore, you will save me some trouble by paying to Winslow, Lanier & Co., as you telegraphed me you would in "a day or so," last week, that \$1,943. I would not trouble you so much were it not that I have depended upon it, as you told me I could some time since. I regret I did not see you when here.

Very sincerely yours,

W. P. KELLOGG.

He produced also a letter or slip of paper saying:

JOHN: I leave for West to-night. See P. at once and give him that statement; also relieve his mind regarding my suit against Brown and others.

CATO.

P. S.—B. says that he will see that he (P.) has indorsers on his note if need be in W.

Walsh explained that "Cato" meant Kellogg, "P.," Price, and "B.," Brady.

Then he produced what I think was a dispatch, but it may have been a letter, as follows:

NEENAH, WIS., August 5.

To JOHN A. WALSH, 3 East 27th st.:

P. writes that he has not seen you. Wants Cato meet him at W. Will you see P. immediately? Important.

He also produced the following letter from Chase Andrews:

OFFICE OF CHASE ANDREWS, ST. CLOUD BUILDING,
Washington, D. C., March 21, 1881.

MY DEAR WALSH: I have just learned that notice has been received at the Department that service on 40101 is entirely suspended, and creditors are taking off the stock. Let me hear from you at once, if I can aid you. The service is so important that much anxiety is felt at the Department to know what you propose to do about it.

Yours, truly,

ANDREWS.

Also, a dispatch saying:

WASHINGTON, June 24.

JOHN A. WALSH, New York:

Yes; I think so. W. says come.

K.

I think he said that "W." meant Mr. Jere Wilson, and that the dispatch related to his (Walsh's) coming here about a settlement with Brady. That is my recollection, but I will not be certain about it.

He produced also the following dispatch:

WASHINGTON, D. C., February 2, 1881.

JOHN A. WALSH,
East 27th, New York:

Will you set to my credit with Winslow, Lanier & Co. that \$1,943? Answer.
W. P. KELLOGG.

The following is a list of the postal drafts produced before both grand juries:

Number of route, 31120, Indianola to Corpus Christi. Date of draft, July 13, 1880, quarter ending December 31, 1880, \$1,250.

Number of route, 31148, San Antonio to Corpus Christi, quarter ending June 30, 1880. Date of draft, July 16, 1880, \$3,000.

Number of route, 31120, Indianola to Corpus Christi, for quarter ending September, 1880. Date of draft drawn, July 13, 1880, \$1,250.

Number of route, 31148, San Antonio to Corpus Christi, quarter ending September 30, 1880. Draft drawn July 16, 1879, \$3,000.

Number of route, 31148, San Antonio to Corpus Christi, quarter ending December, 1880. Date of draft drawn, July 16, 1879, \$3,000.

Number of route, 31148, San Antonio to Corpus Christi, quarter ending March, 1881. Date of draft drawn, July 16, 1879.

Number of route, 31148, San Antonio to Corpus Christi, quarter ending March 31, 1880. Draft drawn July 16, 1879, \$3,000.

Those are the papers that Walsh produced before the second grand jury.

By Mr. STEWART:

Q. Do you say that he published all those?—A. Those were all published in the Herald on the 17th of July, 1882, and it is from that publication that I have had them copied.

Q. Those were produced before the grand jury that failed to indict?—
A. Yes, sir.

Q. Walsh verified those papers, I suppose?—A. He verified the papers by his oral testimony, and he says himself in his testimony here (page 487) that I drew out the facts fully. That is the grand jury before which he complains that the Kellogg-Spofford document was brought in containing his testimony in that case. As to the introduction of that book there, I have already said all that I desire to say.

Q. Did you have anything to do with getting that book before the grand jury?—A. No, sir; not the least in the world. I was kept waiting in the outer room for half an hour. I saw one of the bailiffs come out of the room with a paper (it was not unusual to see the bailiff come out, and I supposed he was going down-stairs for something), and by and by he came back with the book and went into the room, and I was kept waiting in the mean time.

By Mr. VAN ALSTYNE :

Q. You had no knowledge of the book being sent for?—A. No, sir ; not until I got into the room.

Q. You had not been spoken to about it by the foreman of the grand jury?—A. No, sir. Mr. Hutchinson, in one of his answers, seems to imply that I had been spoken to about it before the book went into that room. If he means to say that, he is wrong. There need be no concealment about the fact that the members of that grand jury were very restive; they had been brought together in the summer, and they wanted to go away, and it was quite clear to my mind that they did not believe Mr. Walsh. Mr. Walsh gave his testimony in a peculiar and rather offensive manner. The first day it was cork-screwing to get anything out of him, but I finally brought out the fact that he had had some books, and he said that when he had broken up his business here he had left those books at Welcker's. Upon that we got an adjournment, so that he might go and find out about the books. Next morning he came in and said that he had been to Welcker's and had found that a waiter had sold them for old paper. I remember that at that point one of the jurors said, "You were a banker, and did you leave your books round in that way to be sold by a waiter at a restaurant for old paper?" Walsh said, "Well, I broke up my business in Washington, and I had not any further interest in them, and I had not any place to store them, so they were left there." This member of the jury threw himself back in his chair, put his feet up, and looked in a manner that made it pretty clear that from that time out the proceedings interested him no more. It was quite obvious that he did not intend to believe Mr. Walsh. The Kellogg-Spofford book lay there on the table, and I saw that it was there, and that it was the book that had been brought in by the bailiff. Walsh obviously recognized the book the moment he got his eye on it, and he reached over and asked if he might take it. He took it and found the place and showed it to me, and then I took the book up and proceeded to question him about it, and the impression made upon my mind was that the grand jurors who paid attention (I think a good many of them did not pay attention to that portion of the proceedings) did not count on the book at all. I thought they had gone for the book, thinking they were going to find something in it, and that they had been disappointed. That was the impression made upon my mind. At the same time, while I was in the room some one of the jurymen (I presume it was Mr. Hutchinson, from his testimony here) asked me if it was right

to bring the book into the grand jury room, and I said I did not think there was anything wrong in it. But I did not know anything about it beforehand, and, while I thought they had a right to bring the book there, yet, if I were seeking an indictment, I would not want to meet the allegation of the introduction of such a book into the grand jury room, on a motion to quash, or anything of that kind. As to the third grand jury, I was not before it, and I do not know what papers were before it at all.

By the CHAIRMAN:

Q. Before you leave that second grand jury, state whether there was anything said there by you about Price.—A. I do not remember; I cannot reconcile at all the testimony of Mr. Hutchinson (and I understand somebody else has given similar testimony here) with facts which existed at that time. At that time there had been no arrangement with Price, and I knew there had been no arrangement with him. I never did say to that grand jury that Price would appear next day, nor anything of that kind. Mr. Hutchinson is under an extraordinary misapprehension about that. I could not have said it. The fact about the matter was this: Very soon after Price was indicted, a lawyer of this city, who was an ex-Member of Congress associated with Southern matters, came, as I understood (I was so informed by Mr. Merrick), claiming that Price would talk and would place himself at the service of the Government, and that was really what we were always after in going for Price. We believed, from information that we had, that he was into all sorts of rascality in connection with the star-route business, and also that he was a timid man and a man whom we could finally get it out of, and from that time on we always hoped to get Price. I will not undertake to say that I remember with any distinctness how the mention of Price came before that grand jury, but my recollection about it is this: That some jurymen spoke of Price coming, and that I said, "We are not seeking an indictment now against Price; Price is already indicted"; that the matter was subsequently referred to, and that, for the purpose of reinforcing my case, I said that we hoped to have Mr. Price as a witness on the trial of the case if an indictment were found; but I am as confident as I am that I sit here that I never said to that jury that Price would be produced the next day, and I know that the adjournment was not procured for that purpose, because I know that I had some little difficulty, apparently, in inducing the jury to adjourn over, and that I based my appeal for the adjournment upon the fact that it now appeared from Mr. Walsh's statement that he had left books at Welcker's, and that by adjourning we might have those next day.

By Mr. VAN ALSTYNE:

Q. Do I understand your position in regard to Price to be this: that you never, at any time, objected to receiving him as a witness in the case?—A. I am talking about this grand jury, now.

Q. I am talking about that, too.—A. If you will ask me about Price generally, I will go into that in detail.

Q. The position you assume, as I understand it, is that you never objected to receiving Price as a witness in that Kellogg case?—A. I have not said that, sir; I am talking about what happened before the grand jury.

Q. I understand that; but you do say that down to the time of the presentation of Kellogg's case to the grand jury you had not consid-

ered the acceptance of Price as a witness?—A. No; I say that we were after Price with the hope that we should get him as a witness—not as a witness against Kellogg, but Price had some 400 contracts, and, unless general report was all wrong, he had been in all sorts of multifarious rascality, and we believed that through him we could get directly at Brady. It was not a question of Price as a witness against Kellogg at that time, nor anything like that. Now, I had no knowledge at all upon the subject of Price's testimony against Kellogg at that time, so that I could not have told, and I did not tell that grand jury that Price would be before them the next day. I did not tell them anything of the sort.

By the CHAIRMAN:

Q. Do you know whether Price's name was mentioned there at all by you?—A. I think I told the grand jury distinctly that we were not seeking an indictment against Price then, because he was already indicted, and I would not swear to it, but my recollection, or, rather, my impression more than my recollection, is that, to reinforce my case and to give them an idea that it did not depend entirely on the one witness, I said we had reason to believe or to expect that we should have the testimony of Price at the trial. My impression in that respect is confirmed by a very definite recollection of some one of the jurors saying something which implied: "Well, a witness who has been indicted won't help you much"; or he asked me: "Do you expect to have any witness who is not under indictment?" or something of that kind.

By Mr. VAN ALSTYNE:

Q. You did not suggest to the grand jurors, or in the grand-jury room, that as the case stood upon the evidence submitted to them at the time Walsh was withdrawn, there was not enough to indict?—A. No, sir.

Q. Not that in substance?—A. No, sir.

Q. You made no allusion to it at all?—A. No allusion to it at all. In fact, I said in my letter to the Attorney-General directly afterwards that if I had been a grand juror I should have voted to indict. I have read that letter this morning. Now, as to Price, the position that I took with reference to him was taken a good deal later—and let me say right here that Mr. Ker, in his testimony, on page 548 of this record, disregards dates, and assigns to discussions prior to the reconvening of the grand jury a good deal that was said at the meeting at Mr. Brewster's house, and if he looks at the testimony I do not think there will be any question in his mind that that is so. As I have said, we met at Mr. Brewster's house, and we had a very lively discussion. I took the ground distinctly not that Price should not be accepted as a witness, but that Price should not upon any information that we there had be accepted as a witness and promised immunity, because all we had was a statement, defective as it was admitted to be when I pointed out the details, which bore only against Kellogg, and bore against Kellogg not as accusing him of a crime, not of fraud or conspiracy, but bore against him as guilty of a statutory crime, violating the statute forbidding a Senator to practice before a Department—though it was a matter of discussion also as to whether it might not be the basis of an indictment for conspiracy. I remember that I said at that time that I had been told, though I never had read it in the debates, that when that bill was up for consideration Reverdy Johnson, then a Senator from Maryland, had said in the Senate, objecting to the passage of the bill, that it was

utterly unconstitutional, that he had always practiced before the Departments as counsel and always would, whether they passed the bill or not. I urged that, even as against Kellogg, Price's statement was not sufficient, and we went into the details of it, and it was then admitted that Price's statement was defective, and it was arranged that Mr. Woodward should put his pumps on to him and get out of him, if possible, additional matter.

By Mr. VAN ALSTYNE:

Q. Woodward was the great exhauster?—A. He was the great exhauster. Mr. Merrick stated some additional things that he understood Price could testify to, and Mr. Woodward was to undertake to get that additional testimony. I also objected that Price was not giving enough for his immunity—that our theory was that he was in all sorts of rascality; that he had some 400 routes, and that to take him as a witness for the purpose of getting at Kellogg, and as a witness who insisted that he never had done anything wrong, and that all his transactions were innocent and square, was to set Price free covered with whitewash, and was to let him off a great deal easier than he ought to be let off. I said that I did not believe he was was telling us all he knew, and that any witness who was to be treated in that way ought certainly to tell all he knew. That was my general idea on the question of accepting Price. The question came up about his relations with Kellogg, and as to whether we could convict Price with the testimony we had, and whether we could convict Kellogg with Price's testimony. Those things were talked of back and forth, I taking one view and the other counsel the other view.

By Mr. STEWART:

Q. Could you also use him as a witness against Dorsey and Brady on the trial?—A. I don't know how he could have been used there. I do not recall that he could have been. That was the trial that we were actually engaged in, and I do not see any way in which Price's testimony could have been pertinent.

Q. You know what his first affidavit was, and I ask you whether he could have been used as a witness on that trial?—A. Well, I don't remember what the first affidavit was.

Q. Was he used as a witness on the second trial?—A. No. He never was a witness except before the grand jury, and in the Kellogg trial the other day.

By Mr. MILLIKEN:

Q. You say you looked upon Price as one of the greatest rascals of the lot?—A. I did. It was in the air. We did not know it definitely, except that we knew he was a man that had had these large amounts of contracts. That southwestern service was all considered corrupt, and he was one of the gang.

Q. And you objected to letting the greatest rascal go, in order to convict others, unless he gave you evidence enough to do it?—A. I did not undertake to say that he was the greatest rascal, but I did undertake to say that I believed he knew a great deal more than he was willing to tell us, and that I did not believe in his posing as an innocent man.

Q. Did he tell you enough to convict either of the other parties, in your judgment?—A. I don't know. I don't remember with sufficient accuracy what his testimony was, or what his second affidavit was. My recollection would be that his testimony was such that, going to a

petit jury uncontradicted, it would justify a conviction ; but I have always had the impression that as the case rested upon the payment of money to Kellogg by Walsh, it is possible there would be some explanation given of that which would show that the *prima facie* case was not sound.

By Mr. VAN ALSTYNE :

Q. That would be on the hypothesis that what Kellogg told you was true, viz, that he was a mere messenger to bear that envelope from Price to Walsh, and had no knowledge of its contents?—A. No, sir ; not necessarily on that hypothesis. It might be so, even though he knew all about it. Suppose that the money that he subsequently received from Walsh from time to time was accounted for as coming from an entirely different source, and not any part of the proceeds of those drafts. *Prima facie* it appeared to be a part of the proceeds of postal drafts, and of drafts which Mr. Kellogg took to Walsh, and Walsh said it was a part of the proceeds of those drafts ; but I could see that there was a possibility there of an explanation.

Q. But you had no ground to suspect anything of that sort ? Was it only a possibility, or was there any ground of suspicion at any time ?—A. I had no ground for suspecting it except Kellogg's reference to political contributions. If you ask me my opinion, the opinion I had formed from the facts was that Mr. Kellogg had committed the offense ; but I had formed that opinion simply from looking at the evidence on one side, and feeling that I was looking at the evidence on one side only, and therefore I could see where an explanation might be got in, and an explanation that would be absolutely conclusive, because by that time I had lost my faith in Walsh considerably.

Q. Yes, but if the statement of Walsh is true and the statement of Price is true, then the case is proved?—A. Yes ; but you must bear in mind that after the evidence I have produced here this morning that Mr. Walsh stated in September, 1881, that those drafts did not come to him from Kellogg but from Brady—after you got that evidence in the case, you could not take Walsh's statement as a basis for convicting anybody.

Q. But those things are all capable of explanation?—A. Not after the care with which he made this statement and revised it. I want to be frank about this matter, though ; so I will say to the committee that at the time of this discussion between counsel, of which I have been speaking, I had no recollection of that point in Walsh's statement.

By Mr. MILLIKEN :

Q. Was it the proposition of Price to testify on condition that he received immunity?—A. Well, that was the accepted idea. We all knew that the Supreme Court of the United States had held that if a witness was called by the Government and used, while there might not be any agreement with him by which he was to get off, the court would not allow him to be subsequently prosecuted. I am confident that the whole question of immunity was talked over, and it was an accepted fact all round that if Price was accepted, and if he testified, he was to have immunity.

Q. How valuable do you suppose his testimony would have been before the jury with that understanding that he was a criminal testifying on condition that he should receive immunity?—A. Well, I think that a witness of that kind testifying in a case, unless he is corroborated by papers or by other witnesses, is always looked upon with suspicion ;

but my experience has been that you get a good many convictions upon the testimony of accomplices, and Price was going to claim that he was not an accomplice; at any rate you get a good many convictions upon the testimony of people in the position that Price was in.

Q. Well, if he did claim that he was not an accomplice, and the impression seemed to be so strong that he was, would his claiming that add to the weight of his testimony, or would the jury probably believe that he was lying?—A. It would not add to the weight of his testimony, but the jury perhaps might not have had the same opinion that I had as to the extent of his connection with the matter. He could pose before the jury as an entirely innocent man. To show you that I did not judge wrongly of Price, I ought perhaps to make a statement of a matter which occurred before the Kellogg trial, and which I brought to the attention of the Attorney-General. Just prior to the war a draft for mail service was issued to the order of James B. Price—a warrant for about \$6,800. At the very time when Price was here negotiating to become a witness for the Government through a lawyer who, I think, is the same one I have referred to as having said to us after Price's indictment that he was ready to become a witness) there were commenced in the Post-Office Department proceedings to have a duplicate warrant issued for this \$6,800 upon the allegation that the original had never been paid. The original warrant had never come to the Treasury Department; that was clear. Price made an affidavit that the original had never been paid, and that he had got no value for it—that was the idea of the affidavit. At the end of the paper he put in: "This affidavit is made in view of all the disturbing elements of a large business during the last fourteen years," or something of that sort. At the Department it was a pioneer case of that kind, and there was a good deal of trouble taken to ascertain whether the draft had been paid. A special agent of the Treasury Department went once or twice to New Orleans to investigate, as the draft had been drawn on the sub-treasury in New Orleans. The agent came back and reported that he found no evidence of payment, and a new warrant was drawn.

Mr. STEWART. I do not know that this is legitimate testimony; it seems not to be relevant to this inquiry.

The WITNESS. It bears upon the credibility of Price as a witness, and it is a matter that I called to the attention of the Attorney-General at the time.

The CHAIRMAN. This is a matter which you state as justifying you in rejecting Price as a witness?

The WITNESS. Yes, sir; it is a matter that I did not know at the time of this discussion between counsel about accepting him, but it carries out my idea that Price was a man——

Mr. VAN ALSTYNE (interposing). I do not wish to cut you off, but if you did not know it at that time, then of course it had no bearing upon your decision.

The WITNESS. Well, I am simply going to say that the result was that it was found that the original draft had been paid by the State of Louisiana after the State had seceded, had been paid with the moneys of the United States which had been seized, and which, under the ordinance of secession, were made applicable to all drafts drawn in favor of persons loyal to the Confederacy. That draft had been paid from that money, and the whole record was found, and of course the new warrant was canceled. Now, if Price had been used as a witness on the trial of the Kellogg case, this matter was known to so many people

that it was pretty certain to come out on the trial, and it is not likely that there would have been a conviction after that. Let me state now how I came to know about these facts. The Attorney-General sent Mr. Kellogg to me in New York last spring to talk with me, and he told me of this whole transaction about the warrant.

By Mr. VAN ALSTYNE :

Q. That was before the trial?—A. Before the trial. I sat down the same afternoon that Mr. Kellogg talked to me and reported by letter all that had passed to the Attorney-General. I came on here the next week and told him of these statements, and remarked that they were very extraordinary and ought to be investigated. I went down to the Post-Office Department and saw Mr. Lyman, and saw Judge Ela, the Sixth Auditor, and went over the whole thing and wrote a report, and suggested that I did not want to judge Mr. Price, but that if we were going into court—at that time I did not know whether I was going into court or not, though the Attorney-General had required me to make an affidavit in the Kellogg case in order to arrest Walsh—I suggested that if we were going into court with those two witnesses—Walsh, who had kept away so that the judge had said he did not know what was wanted of such a witness except his papers, and Price with this record behind him—I thought there was not much chance of a conviction.

Mr. LYMAN. Price executed a bond of indemnity to secure the Government?

The WITNESS. Yes; the money did not go out of the Treasury. The original draft was not paid to Price; it was paid to the cashier or runner of a bank in New Orleans; and among his papers they found the receipt, but not the original warrant; the original warrant has never been found.

Q. Did you know of those facts at the time you objected to Price being accepted as a witness?—A. No, sir; I merely mention the facts now to show that I had the conviction that Price was in all sorts of rascality connected with the Post-Office Department, and that my idea was well founded.

By Mr. MILLIKEN :

Q. Have you changed your mind on that point?—A. No, sir. Then, beyond that, I did not think we were getting enough from Price for his immunity. We had got one man under indictment and were going to let him go, and, with the statute of limitations staring us in the face, and the other difficulties in the way, I thought we had enough to contend with. Now, as to the statute of limitations, I had looked to see if I could find any cases bearing upon the question; for instance, whether, when a note was given for an existing debt (the nearest thing to this case that I could imagine), the statute could be alleged to run from the time the overdue debt existed, or from the time when the note matured. I did not find much that amounted to anything in that connection, but I found some Western or Southern decisions which I thought bore upon the case, some one way and some the other, and it seemed to be a doubtful question as to when the statute of limitations would run. Mr. Ker says that I assigned no reason why Price should not be accepted as a witness, or why Kellogg should not be prosecuted, except Mr. Merrick's politics. Now that is not true, and I do not think Mr. Ker meant to be so understood, but that seems to be the way that I read his testimony, which appears on page 551 of your record. The reference to politics came up in this way: I said to Mr. Merrick, "Are you not allowing yourself to be warped by the fact that you have not only had an earnest

and almost personal controversy with Mr. Kellogg, when you were engaged as counsel against him on the question of his right to a seat in the Senate, but also by the fact that you believe him to be a scoundrel, and the fact that your political feeling comes into the matter—are you not allowing yourself to be warped in that way?” Mr. Merrick said that he bore that all in mind and had been guarding against it, and had been very careful. I don’t know whether I said it or not, but I did not believe that Mr. Merrick *could* free himself from his political influence in that respect; and I was influenced in that judgment in a measure by this: Either then or subsequently the point came up that the prosecution of Mr. Kellogg would change the Republican majority in the Senate, and then there arose the suggestion: “He will be indicted, but we will not try him until after he goes out of the Senate;” and I think I said, I know I at least *felt* strongly, that if Mr. Kellogg was guilty enough to be indicted for violating the laws of the United States, he was too guilty to be deliberately left to make new laws for the United States during the remainder of his term. The idea of indicting him and then deliberately arranging to leave him in the Senate during his term of office seemed to me an absurdity.

Q. Did you suggest that it was a very serious thing to interfere with the safety of a United States Senator in that way?—A. No, sir.

Q. Neither to the counsel nor in the grand-jury room?—A. No, sir. A colored member of the Hutchinson grand jury said something about its being a serious thing to indict a United States Senator, and I replied that it was, but that Senators might be guilty as well as other people.

By the CHAIRMAN:

Q. Did you yourself consider the political effect of his indictment?—A. No, sir; probably I did not, because I say frankly I knew perfectly well that he could not be tried or convicted before his term would expire.

Q. I mean in the sense of withholding or persuading the other counsel to withhold the prosecution?—A. No, sir. There has been some reference to Mr. Kellogg being my friend. I never knew him until he walked into my room with this letter from Mr. Brewster. I had seen him going out of Mr. Cook’s office, but I did not recall him. I never was any friend of his. I never had anything to do with him in any matter except this. Once subsequently he stopped me in the street, and once he spoke to me in the cars, and then there was this call which he made upon me in New York.

By Mr. VAN ALSTYNE:

Q. That is, you have had five interviews with him in your lifetime?—A. Yes, sir; and never any interview except when he came to me and wanted to talk to me about this matter and I wanted to get rid of him.

Q. Did you suggest to your associates anything about the political effect of having Mr. Kellogg indicted?—A. I suggested it no further than this, that in talking with Mr. Merrick, I said to him that if Kellogg was indicted people would say it was done through him (Merrick) in consequence of his political hostility to Kellogg. This was in conversation between Mr. Merrick and myself. Do not understand that there was anything offensive about it at all. It was as pleasant and kindly as could be; no offense given or taken on either side.

Q. Did you suggest to anybody that he should consult Mr. Chandler with regard to the political effect of this indictment?—A. Not there.

Q. That did not weigh in your mind at all?—A. I did not mean that

it should. I am an earnest Republican, but I did not mean that it should.

Q. At least you did not manifest it to any one?—A. No, sir. If anybody took that inference from anything I did or said, they took a wrong inference. We adjourned that conference with the understanding that Mr. Woodward's pumps were to be put on to Price. I understood and I still believe that it was part of that arrangement that when Woodward got that additional statement, we were to be again brought together and have a chance to examine it, because the views I entertained had been accepted by the others so far as to agree that the first statement of Price was not sufficient to justify his acceptance as a witness, and I considered that it was a part of our understanding that I was to have an opportunity to see the new statement after it was obtained by Mr. Woodward. I went to New York and when I came back on the 2d of January—I think, Monday—I was met by a letter from Mr. Woodward saying that he was directed by the Attorney-General to inform me that Price was accepted as a witness.

Q. Did you understand at the conference with the Attorney-General that any one of the counsel were to see him again with reference to the acceptance of Price?—A. I thought we were all to be brought together again to see him and to confer about it.

Q. You did not understand that that conference at the Attorney-General's house was a finality?—A. No, sir; I was confident that it was not, and I say that I am confident now that that was not the understanding, because there was an admission practically on the part of the other counsel that Price's first statement was not sufficient, and I understood that we were to see his new statement, which was to be obtained by Mr. Woodward.

By Mr. STEWART:

Q. That might be true, and yet you might leave the final decision to the Attorney-General?—A. Certainly.

By Mr. VAN ALSTYNE:

Q. Was it not the understanding that the question, whether you should proceed further with the indictment of Kellogg was to be left entirely with the Attorney-General?—A. Of course the Attorney-General had the right to do anything he chose about it.

Q. But was not that the agreement?—A. No, sir; my understanding was that that was not the agreement; my recollection was very clear about it. When I came back and found this state of things I felt that, directly or indirectly, faith had been broken with me, and I am frank to say that I thought that Mr. Merrick had somehow or other been concerned in it, that my associates had got from the Attorney-General, in my absence, this determination to use Price, and that it had been done with a definite purpose, and I was pretty wrathful about it. I wrote a note to Mr. Merrick to say that I should not be in court that day, and intimated or stated the reason. My recollection would be that there came back a note to me from Mr. Merrick, and that I replied to that. I then went down to the Post-Office Department, and after the court adjourned Mr. Merrick came in. We had a conversation, in which I did not intimate to him that I thought there had been any underhand work, because I did not want to be offensive, but it was obvious that Mr. Merrick thought I had that idea, and therefore, in the course of the conversation, he told me distinctly that he had had nothing to do with the determination. He stated that he understood that our meeting at

the Attorney-General's house was to be final so far as the counsel were concerned, and that the determination of the question was to be left to the Attorney-General alone. I said that I did not understand anything of the sort; that I did not understand that that meeting was final; that I thought we were to come together again after the new statement was obtained from Price; that I still maintained that opinion, but that, whether I did or not, if this decision had been given by the Attorney-General without any special disregard of me, why that ended the matter. So I went into court next morning, having been out of court but one day.

Q. Did you urge as one of the reasons for your view that the statute of limitations had run against the offense, as you understood it?—A. Not distinctly that the statute had run, as I understood it, but I urged that it was a question of the statute of limitations.

Q. Explain what you mean by that.—A. Well, it was very clear that the statute of limitations had run, provided you dated the offense from the time when the postal drafts were alleged to have been delivered to Kellogg. It was equally clear that it had not run if you dated from the time when the drafts had matured, and the question as to which period the statute was to be taken to cover was a question about which, as I thought, there was considerable to be said on both sides. I will be frank about it, and say that my impression was that upon an indictment properly drawn you could establish the view that the statute of limitations ran from the date of the payment of the money, provided Price's testimony was consistent with that, if Price's testimony was that he agreed with Kellogg to give him so much money, and then gave him those drafts on which the money was subsequently received; but if, on the other hand, Price's testimony was that he agreed to give Kellogg the postal drafts, and Kellogg took them with all the uncertainties hanging over them—for instance, with the contingency that the service might be cut off, and that therefore he would get nothing—if Price's testimony was to that effect, it seemed to me that the statute would run from the receipt of the drafts. There were various questions of that kind. I looked the matter up, and I think I made quite a brief upon it. My general idea was that Price would have testified so that the statute would not have barred the indictment.

The CHAIRMAN. I think if you will refer to page 209 of our record you will see that in your former testimony you took a different view.

The WITNESS. I have a memorandum here that in some portion of my previous testimony I made a mistake as to the statute of limitations; that I expressed the opinion that the statute had run. I find the memorandum here before me, referring to page 210 of the record of this committee. I was wrong in saying that it was a settled thing that the statute of limitations had run as against Kellogg at that time, but we thought it had. In point of fact, the statement was that it might be claimed that it had run, and we had more or less discussion about it; but I cannot say how much detail was gone into on that question.

Q. Then there was no question at the time the Hutchinson grand jury was in session as to whether the statute had run?—A. At that time the statute had not run on either view of it. We got that grand jury reconvened, so as to get an indictment before the statute would run. It would run on the 19th, I believe.

Q. Before it would run on any feature of the case?—A. Yes, sir. And now, as I am talking about that, let me say that Mr. Ker is mistaken in stating that he prepared any indictment for the previous grand jury in which the name of Kellogg was concerned.

Q. You mean the Hutchinson grand jury?—A. Mr. Ker says that he prepared one for the March grand jury. He says that twice over. I think that is an inadvertence on his part, because he is asked then how he got Kellogg's name, and he says he got it from the papers. Now, you will bear in mind that there never were any Government papers that contained Kellogg's name. The only papers that had it were those that Walsh produced, and Walsh's testimony is direct and affirmative that he did not produce those before the Mitchell grand jury.

By Mr. STEWART :

Q. Did not Kellogg sign a request for expedition, and did not his name appear upon that?—A. It possibly did. If there was any member of Congress from the West or Southwest who did not sign such requests, he ought to be brought out as a curiosity.

Q. Did General Logan sign any?—A. I don't remember.

Q. Did Mr. Springer?—A. I suspect that Mr. Springer's name can be found on some of the papers.

The CHAIRMAN. I think not.

The WITNESS. On the Dorsey trial we were met by the fact that these requests were brought in signed by many distinguished gentlemen, Secretary Teller and Senator Bowen and General Sherman and others. Those papers were brought in, piles of them, and part of the force of the claim made by the other side was in the fact that Brady appeared to have acted upon the strength of the requests of these legislators, whose wisdom and integrity was to be presumed.

By Mr. VAN ALSTYNE :

Q. What you mean is this, that when Mr. Ker says that he drew that indictment against Brady and Price and Kellogg, and submitted it to you, he is in error?—A. No; I say that he could not have drawn such an indictment *for the March grand jury*. Undoubtedly when the grand jury was reconvened, the time was short and the indictment *was* then drafted as Mr. Ker has described, and undoubtedly it was destroyed when the Hutchinson grand jury refused to indict.

Q. But at that time Brady and Price had been already indicted, and do you say you were going to couple their names again in a new indictment against them and Kellogg?—A. I do not know how that may have been, but you will see that there was no official paper that bore Kellogg's name on it from which he could have been indicted, and Walsh had not produced his papers or talked with the Government counsel at the time Mr. Ker drew his indictments for the March grand jury; so that Mr. Ker must be in error about that.

Q. Is it not a fact that your evidence upon that subject is more the result of argument in your own mind than recollection of a fact?—A. Of course I can have no personal knowledge of what Mr. Ker actually did. Mr. Ker may have drawn the indictment. I can only say that I never heard of an indictment with Kellogg's name in it being drawn for the March grand jury, and I do not believe that there was any.

Q. But you say that more as a matter of argument than as a matter of remembrance?—A. No; I remember that I never saw any such indictment, and never heard of it.

By the CHAIRMAN :

Q. Mr. Ker requests me to ask you whether Mr. Woodward did not prepare a brief for the March grand jury, on which Brady and Price and Kellogg were to be indicted?—A. No, sir; I saw no such brief. There was never any such brief that came to my knowledge.

Q. You have stated that in discussing the propriety of accepting Price

as a witness, you took the ground that if he was accepted it would let Brady off?—A. No, I did not say it would let Brady off, further than that, inasmuch as Price was indicted for conspiracy with Brady, if we accepted Price as a witness, then *practically*—not legally, but practically—we could not have convicted Brady on that indictment; for, although it is of course technically possible under an indictment of two conspirators to accept one of them as a witness, and go on and secure the conviction of the other, yet while that is legally possible, I do not believe that in practice it can be done. The effect of that concatenation of things upon the jury would be such that you could not get a verdict.

By Mr. STEWART:

Q. Were Brady and Price indicted only for conspiracy? Were they not indicted for something else?—A. In connection with these routes, only for conspiracy.

By the CHAIRMAN:

Q. How were you to prove the conspiracy if both the conspirators were indicted?—A. We were to prove the conspiracy just as we proved it in the Dorsey case, from concurrent circumstances, and also from Walsh's testimony. That is all. But the evidence there was not so strong as it was in a case where you had an aggregation of routes.

Q. When you had accepted Price as a witness, and he had testified to those facts which you have stated in regard to the matter, would not that testimony make a stronger case against Kellogg than you would have had if you had prosecuted both Price and Brady?—A. Undoubtedly it would have made a strong case, provided you had not been troubled by the technical objection which, no matter what the ruling might be, would practically be in your way, that you had only one conspirator. I do not recall facts fully, but on that statement I should say so.

By Mr. STEWART:

Q. Don't you think it was a judicious thing to use Price after the indictment was filed against Brady?—A. To use him in what trial?

Q. In the trial of the case in which Brady was indicted with Price.—A. A judicious thing if the case was to be tried, certainly. But the case has not been tried, and I understand is not going to be.

By Mr. VAN ALSTYNE:

Q. He was really accepted in the Kellogg case?—A. I suppose he was to be a witness in any case that he could testify in.

By the CHAIRMAN:

Q. Was not Price a witness before the grand jury that returned the indictment against Brady and Price?—A. I do not know.

Q. Do you know how many indictments were found on Price's testimony?—A. No; I was not before the grand jury; I had nothing to do with it.

Mr. Ker said something about my asking him to put the true date into the Kellogg indictment. He has got that a little wrong. A gentleman came to me and made a request, and I went straight to Mr. Ker; that is, I spoke to Mr. Ker about it as soon as I saw him. Mr. Nathaniel Wilson came to me and said substantially that he thought it would be fair treatment if that indictment should be so drawn as to set out the whole transaction, so as to enable them to raise the question of the statute of limitations by demurrer to the face of the indictment. I stated that to Mr. Ker, and told him that it was the request of Mr. Kellogg's counsel. Mr. Ker said that he did not see how it could be

done consistently with the rules of criminal pleading. That is all there was of that transaction.

By Mr. STEWART:

Q. Could you frame a criminal indictment upon any other theory without making it subject to objection for variance when you put in your evidence?—A. Any other theory than what?

Q. Any other theory than that you should state the facts exactly as they were. I cannot conceive how you can set forth a state of facts inconsistent with the truth, and then expect to maintain your position by your evidence?—A. Well, my idea about the Kellogg indictment was that it should be drawn, and if I had been consulted, which I was not, I should have suggested that it be drawn—now I am not half so good a criminal pleader as Mr. Ker is, and therefore I may state it very absurdly, but I should have suggested that it should be drawn stating the agreement alleged to have been made with Kellogg, and stating the delivery to him of the postal drafts, naming them, stating it as an agreement to pay a sum of money, and alleging that the money was paid at the time fixed. Stating it in that way in general terms would have left, as I thought, a chance for the defense to raise the question of the statute of limitations upon the pleadings, claiming that they showed a transaction in which the statute of limitations ran from the beginning of the postal drafts.

By Mr. VAN ALSTYNE:

Q. In other words, you put in an agreement to pay a certain sum *in futuro*?—A. Yes, sir.

Q. And you would claim that the giving of the postal drafts was in accordance with that agreement?—A. Yes, sir; that was my general idea, but I was entirely outside of this Kellogg case. When Mr. Wilson came to me he made some remark to the effect that the other counsel were not disposed to treat them fairly—he gave that as the reason why he came to me, and I carried his message to Mr. Ker; but I did not reflect much about it.

By Mr. STEWART:

Q. My point is this: not theoretically what one might do, but every criminal indictment is based upon a state of facts, and those facts rest in proof?—A. Yes, sir.

Q. Now, then, is it good criminal pleading, when the draftsman knows what the evidence is, to go on and frame an indictment, so that when the question comes up for trial it can possibly go off on the question of variance; is that permissible in any case, unless he has been surprised by his witnesses stating the facts differently from how they were stated before the grand jury?—A. No, sir; it is not.

Q. In other words, the indictment ought to be so framed with reference to the evidence that the question of variance cannot be raised.—A. I think it ought.

Q. In that case the question of the sufficiency of the indictment as matter of law can of course be raised upon demurrer. If it appeared on the face of the indictment that the evidence was barred by the statute of limitations upon the facts as stated a demurrer would settle it.—A. Yes, sir.

Q. Now, as I understand you, Mr. Wilson's request was simply this, that that indictment should present the case as it rested on the evidence and according to the facts.—A. Yes, sir.

Q. And that was not done?—A. That was not done; I thought Mr. Wilson's request was a very fair and proper one, at the same time I did not consider it in any detail. Possibly Mr. Ker pointed out some diffi-

culty in drawing the indictment in that way, at any rate, the moment he said it could not be done consistent with the rules of criminal pleading, it passed from my mind, because I felt myself out of the Kellogg case practically always.

Now let me say that on the 3d of January, when I received information that Price was to be used as a witness, I addressed this letter to the Attorney-General:

WASHINGTON, *January 3, 1883.*

DEAR SIR: I have received from Inspector Woodward notice given at your request that you have decided to use James B. Price as a witness in some of the star-route cases. Of course I recognize most cheerfully your authority in this matter, but as I am not convinced of the wisdom of accepting Mr. Price in the present aspect of the cases as a witness, and granting him the necessary immunity, you will allow me the privilege of recording my dissent.

There are some matters connected with this business not concerning your action which may lead me to again trouble you, but I reserve them for consideration.

Your obedient servant,

GEORGE BLISS,
Special Assistant Attorney.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

There has been published here by the Attorney-General a letter of mine, dated August 16, 1883, which I will have inserted in my testimony at this point. It is as follows:

THE UNION LEAGUE CLUB,
New York, August 16, 1883.

MY DEAR SIR: Is it desired or expected that I should take part in the trial of Ex-Senator Kellogg? I ask because it is *necessary* for me to know with reference to engagements for the fall and winter here.

Kellogg's trial is to be some time in October, I presume, the precise time not to be fixed till the court meets on October 8. I consider that the Government has a right to my services at the trial if it wants them, but I *must* be able to arrange my engagements here. I have to arrange for some important trials here in October and must therefore know what the Government desires of me.

As you know, I have never had any great faith that the case would succeed. *If* the evidence first produced by Walsh before the last grand jury were in possession of the Government I should feel differently. I speak only from Mr. Ker's report as to those letters. But the Government has neither the letters nor copies. I fear Walsh cannot be relied upon. However this may be, I, of course, should do my best if I went into the case. Perhaps some one who feels surer of success than I do would do better. Mr. Merrick and Mr. Ker are, of course, fully competent to manage the case without any assistance from any one, but an attempt has been made to give a political turn to the case to the detriment of Mr. Merrick, and he as well as the Government ought to be protected from this. Some Republican ought to be associated with them. I am not sure I am the best man, but you have a right to my service.

Yours, truly,

GEORGE BLISS.

Hon. B. H. BREWSTER,
Attorney-General.

Thereupon the Attorney-General addressed a letter to Mr. Corkhill, asking him about the probability of being able to try the Kellogg case at that time.

MR. CORKHILL. Asking me to postpone it.

THE WITNESS. I do not know what his letter to you was. The Attorney-General sent me a copy of Mr. Corkhill's reply, stating that the case would not come up at that time, and that he would give notice when it was to come up. I remained in that perfunctory way in the Kellogg case until February, when we wanted Walsh arrested in that case, and I said to Mr. Brewster that Walsh had a feeling against me, and that the Kellogg case I did not consider as being a very good case, so that on the whole I thought I had better not appear in it. The Attorney-General then wrote to me and stated that he wanted me to make an affidavit.

I think that completes everything I know as to the Kellogg case.

I see that on page 123 of your record here Mr. Cook says that Price, in talking with him, referred to his previous political relations with Kellogg, and to his having in times past made some money contributions for political purposes. I gathered from Kellogg something of the same sort, except that I thought he was talking of a payment made when he was acting as governor in Louisiana, and when, I think, some of our Democratic friends there cut off his supplies.

By Mr. FYAN:

Q. Is it within your knowledge that the Attorney-General sent for Judge Wylie and expressed a desire that the whole power of the Government should be used to convict Kellogg?—A. Judge Wylie is going to be before the committee, I trust, and I would rather that you would ask him that question.

Q. I ask *you* to answer it if you know the fact.—A. I do not know it, not having been present at any such interview. I do not *know* anything on that subject; I have an opinion on the subject.

As to Walsh's claim against the Government, he says that I have acted inconsistently about it. Now, my position about that is simply this: As Mr. Lyman and Mr. Woodward relieved Walsh from the operation of the order made against him as a failing contractor, I thought that it restored his claim for a month's extra pay unless he expressly waived it, and that his written waiver did not cover that, and I told Mr. Merrick, as Mr. Walsh's friend, of that view, and Mr. Merrick wrote me on the 3d of April, 1883, saying that he had communicated that view to Mr. Walsh's counsel. The question as to whether there had been a waiver outside of that written waiver was a different matter, a separate question of fact, and when I came to see Mr. Lyman and others I learned that they had testified to facts in the case before the Court of Claims which seemed to show that there had been such a waiver.

On the 13th of April, 1883, Mr. Merrick wrote me as follows:

MERRICK & MORRIS, COUNSELORS, NO. 1306 F STREET,
Washington, D. C., April 13.

MY DEAR COLONEL: Some time since I received a letter from Walsh, as I heretofore mentioned to you. I took it with me to court three or four times to hand to you, but in the "hurly burly" of the fight forgot to do so. I send it to you with this, thinking you might see him, possibly, whilst you were in New York. I do not know what view of the letter you may take, but it seems to me that he is straining to force us to do that which is beyond our power, certainly beyond mine. I explained to Walsh's counsel in conversation a few days ago the point in his favor mentioned by you in our last conversation about this letter. * * *

Sincerely, yours,

R. T. MERRICK.

The chairman seemed to think at one time that my regarding Mr. Walsh as a co-conspirator was based upon the fact that he had a claim now against the Government. That seems to be the idea of the chairman expressed on page 471. If so, it is an entire mistake. My idea in regarding Mr. Walsh as a co-conspirator was this: That Mr. Walsh received from Brady orders made in his favor, and that, coincidently, or nearly so, or while he was deriving the benefits, he paid money to Brady. Walsh said that money was a loan, but he said that Brady himself claimed that it was a gift or bribe money. Therefore in that view of the case I thought that Walsh might be regarded as a co-conspirator. There is some question made about some bill that Walsh presented for "services." I never knew what the services were. I always believed that they consisted simply in remaining in Washington, because he could not afford to remain here for \$1.25 a day. I supposed that that expense was incurred by Mr. Merrick and, perhaps, by Mr. Ker, and that prob-

ably the bill ought to be paid, but inasmuch as the law fixed \$1.25 a day as the compensation for witnesses, I felt that we could not go on and undertake to pay Mr. Walsh anything beyond that—certainly could not do it for the Government, and I did not feel disposed to make any further advances, although at one time it was suggested that the counsel should advance the money.

As to Walsh's papers, some criticism was made by him upon the fact that I did not impound them. The answer to that is, that when an indictment is found the papers ought to be impounded or held by the district attorney, but when an indictment is not found of course the papers go back.

As to my meeting Walsh on an elevated train, I don't know that I was ever on the train with him; I would like some other evidence of it than his statement; at all events, I never saw him there.

Q. Now, Walsh says that I am wrong in saying that Judge Wylie ever made any derogatory references to him. I will not stop to read an extract from Judge Wylie's public designation of him, contained in the official report of the trial, which is before the committee, but I will submit it. The extract is as follows:

I have never known such audacity as this. The man avoids the process of the law, writes to the President of the United States and to the Attorney-General, prescribing the conditions upon which he is willing to appear as a witness; states that he thinks one of the counsel, Mr. Bliss, is not faithful to the Government in the performance of his duty, and that Mr. Bliss has not done what was right, or what he thought was right, in vindicating him under certain circumstances. He states that until Mr. Bliss submits to be dismissed from the service of the Government and some vindication is given him as to his character he is not going to appear as a witness before a jury. I want to see, and I am going to fix a day partly for that purpose, whether there is power enough in this Government to find that man. If there is power enough to find him, they can find him in three weeks. If the Government is so weak that one man can baffle its process successfully, then we will not delay the trial until he is found. We will take it for granted that the man will continue to have hereafter the same success he has had heretofore.

About the arbitration business, I only desire to say that it is an entire mistake to suppose that I ever proposed to arbitrate until after the grand jury had refused to indict. That grand jury adjourned on the 15th day of June. The agreement of arbitration in the Parker case was signed in court that morning and bears date that day. The notice that the grand jury had refused to indict came to me at some time prior to the 15th, I think as early as Tuesday, the 15th being Saturday, but I will not be certain of that. At all events it was after I got the official notice that the grand jury were not going to indict that I went into the arbitration business, and any conversation that I had with anybody on that subject was after that time—any conversation with Mr. Ker, or Mr. Merrick, or anybody else. I still think that I visited Mr. Merrick's house that night when I learned of the failure of the grand jury to indict, and was proposing to arbitrate, but I see that in my previous testimony I spoke of our having looked up authorities. I am satisfied that that was wrong, and that no authorities were looked up at that time. The examination of authorities was some time afterwards.

I have already answered as to the circumstances under which Mr. Woodward was not allowed to orate to the grand jury. Something in Mr. Woodward's testimony here reminds me that he mentions that somebody had got \$500 for services in getting certain Senators to sign petitions for expedition. That was upon the Vinita and Las Vegas route, I remember, and I stated to the grand jury that I desired to get that witness before them the next day and more than one of the grand jurors, when told the name, said in substance: "You need not bring that man here; we should never place any reliance upon any testimony that he

might give; his reputation here in Washington is such that he would not be believed."

By the CHAIRMAN:

Q. Did not Mr. Woodward give the name?—A. I think not. There was the name of Parrish given, and the testimony of Mr. Woodward reminds me that there was a Parrish who had got up the Saint Louis petitions. He was not before the grand jury. I did not consider it important to produce him. The petitions spoke for themselves, and were as good evidence as his testimony would have been.

Now, leaving the Vinita and Las Vegas route, once for all, I want to say this: Mr. Woodward went into an elaborate statement before you giving in substance the whole brief that he had made upon that case, and if you will compare that statement with my brief which I submitted to the grand jury and which they had before them, you will find that every item in Mr. Woodward's statement is in that brief of mine submitted to the grand jury. Mr. Mitchell, the foreman, says that he does not think I ever left that paper with the jury. The paper bears on its face the evidence that I did—all those papers bear evidence that they were before the grand jury; they have the decision of the grand jury indorsed upon them. They were papers that I prepared and handed to the foreman and left with him. As to the original documents, my recollection is that the grand jury never did have any official documents left with them over night, because we were always required to take those back to the Department at the end of the day, which we did. I do not recall that occasion particularly, but I know that after we got through with presenting a case I usually went back to my office, leaving whoever was in charge of the papers in the outer room, the papers remaining with the grand jury, and when the grand jury broke up he took the papers and carried them down to the Department. That was the general rule. Whether that was done in the case of the Vinita and Las Vegas route I cannot state definitely, but I have no doubt that it was.

Mr. Mitchell seems to imply that I was in the outer room and went into the grand-jury room when they decided not to indict in that case, and got the papers. That is an error. I got those papers at my hotel in the evening, and they came to me in such a way as led me to think that the grand jury had sent them to the district attorney's office and that the district attorney had sent them to me.

Mr. CORKHILL. You were not there when the grand jury returned the papers.

The WITNESS. I think not. I have not spoken to Mr. Corkhill about this, and have not seen him for months until now.

I think I have nothing else to say at present. Although I have occupied a good deal of time I have not answered all the points that I should have liked to answer. There are certain letters from which I had intended to hand extracts to the committee, but they are probably not of sufficient importance to justify me in incumbering the record with them. One was a letter of Mr. Merrick's saying that he had received a request from the Attorney-General to attend to the Salisbury cases, and that he did not know whether he should make any reply or not.

Here is a letter from Mr. Ker, dated November 8, 1882, which bears upon the question raised here about the subpoenas and the examination of the witnesses:

DEPARTMENT OF JUSTICE,
Washington, November 8, 1882.

My DEAR COLONEL: I can sympathize with you, but probably you have made up your mind to "stare fate in the face" and do not need sympathy. You have a fine

lot of people in your party, just such a lot as we have in ours. Up till last Friday, Beaver was all right in Pennsylvania; but Governor Hoyt came out with his letter, and Beaver was all wrong. The people seemed to be fairly crazy to get on the winning side. Just look at Ben. Butler. What have us poor Democrats done, that we should have this affliction put upon us? My friend was elected judge in Philadelphia, and I feel correspondingly happy.

Sloan says you are coming over here next week. I am glad of that. I received your letter stating that you would advance money if you received what was due you from the Government. I understand there is some hitch in the Treasury Department, but I do not know the nature of it. I think our arrangements for the advance money will work. If it does not, we will have to try some other plan. When you come over, I will explain the details of each batch of subpoenas. The newspaper lies are as plentiful as ever; I suppose you see some of them.

Yours, truly, &c.,

WM. W. KER.

Col. GEORGE BLISS.

Here is a letter which the Attorney-General wrote me on the 16th of November, 1883:

DEPARTMENT OF JUSTICE,
Washington, November 16, 1883.

SIR: You will please, in the matter of the prosecution of Kellogg, make affidavit yourself as to the matters complained of about Mr. Walsh. I ask this for reasons that are known to you and myself, that make it more advisable that you should be the person to do it.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
Special Assistant United States District Attorney for the Star-route Cases,
Arlington Hotel, Washington.

I have here the original affidavit of Mr. Walsh to which the Attorney-General called my attention, which was published in the New York Herald on Saturday, November 25, 1882.

I have referred to it, but I do not suppose the committee desire the affidavit for their record.

I have here, also, the brief that went before the grand jury in the San Antonio and Corpus Christi case. The committee will see that it sets forth explicitly the substance of Walsh's statements as to Brady.

B.

San Antonio to Corpus Christi, route 31148, and Monroe to Shreveport, route 30183.
James B. Price, contractor.

Indictment desired against Price and Thomas J. Brady.

First. San Antonio to Corpus Christi. Let at \$2,733 on a schedule of 40 hours; twice a week, 150 miles.

Aug. 26, 1878.—Service made 6 times a week and \$5,466 additional allowed.

Aug. 2, 1879.—Time reduced to 29½ hours and \$20,204 additional allowed. Total, \$28,403.

John J. Ellis' subcontract, giving him absolute right to all monies, was filed Aug. 29, 1879. It was dated and made Sept. 18, 1878, but Ellis did not file it till after the expedition was ordered, nor until after, on Aug. 20. Price had applied to have the subcontract declared void because made without the consent of the Postmaster-General and because he did not begin expedition on Aug. 1.

As to the latter reason Ellis swore that he did begin on Aug. 1, and produced the certificates of the terminal postmasters to that effect.

The Department, by letter of French, refused to declare the subcontract void, and authorized it to be filed, but the next day Brady, on the last day of the quarter, suspended Ellis' pay. This brought him to terms. Though entitled by his contract to all that was allowed for expedition, he could get no pay until he made a new contract with Price by which he gave to Price \$15,653 of the total pay of \$28,403. This was Price's bonus for doing nothing in the way of carrying the mails.

There was no shadow of law or reason for Brady's order suspending Ellis' pay. Ellis took the contract when Price was in imminent danger of being declared a failing contractor, which would have destroyed all Price's other contracts. Price was content until after expedition, when he had influence enough of some kind with

Brady to procure a suspension of pay on the last day of the quarter and thus force Ellis to his terms.

Ellis produces letters showing that he surrendered unwillingly and only because he *must* have money to pay his debts.

Ellis swore that in at least two conversations Price told him he got only about a third of the money paid by the Government, one of the other thirds going to Ellis, and the third one to some one in official position in the P. O. Department; Ellis inferred Brady.

John A. Walsh stated in detail a conversation with Brady in which the latter expressly told him he was paid by contractors for ordering expedition and increase, and named the percentage, and urged him, Walsh, to do the same.

Walsh confirmed his relations with Brady by producing a familiar letter from Brady, and also the letter making the appointment for the interview at which the conversation occurred.

Walsh also identified about \$20,000 of drafts given by Price upon his pay on this route, and said there were \$5,000 or \$10,000 more given by Price on another route. All of these drafts came from Brady to Walsh; for \$12,500 Brady got credit and received back a note he owed Walsh. The whole matter was discussed with Brady. The drafts produced had on them Walsh's endorsement. The drafts on San Antonio and Corpus Christi route amounted to just about the percentage of the full allowance which Brady told Walsh he got from contractors.

Walsh also swore that Price, since the present investigation commenced, had asked him, Walsh, to say he got the drafts in the way of discount; he produced a letter of Price's looking in the same direction.

Walsh swore that in fact he never had a transaction with Price.

Unless therefore Ellis and Walsh are both disbelieved Price and Brady both admitted corruption, and as to both there is corroborative evidence.

The grand jury may properly consider, also, in this case any other evidence which has come before them which has satisfied them Brady was not an honest officer.

Second. As to the expedition, it was obtained on an affidavit made by Price on July 15, 1879, that a schedule of 40 hours, 6 times a week, required 8 men, and 20 animals—28; that a schedule of 29½ hours would require 23 men and 74 animals—97, an increase of 2.46 per cent.

Ellis showed the falsity of this affidavit in both its branches, though it was chiefly false in greatly understating the number in actual use. Thomas H. Devine, who is now carrying the mail, says he employs 19 men and 64 animals, but could need 12 less animals to carry the mails alone.

Ellis used before expedition 56 animals, and added about 12 head after expedition; 6 drivers were used before expedition and 8 to 10 afterwards.

There were no petitions for expedition. The sole papers were a letter of Senator Maxey and the oath of Price, both filed on the same day.

Third. On route 30183, Monroe to Shreveport, Price was also contractor. He made a subcontract. Then came expedition. Then Price applied to have the subcontract declared void. It was done; the subcontractor was brought to terms, and then the service allowed to go in.

By Mr. VAN ALSTYNE:

Q. That letter which you have read as having been brought to you from the Attorney-General by Mr. Kellogg, does it seem to be in a disguised handwriting?—A. (Producing the letter.) You can judge for yourself. If you want to know my opinion, I think the writer was "disguised" when he wrote it.

Q. Without reference to the fact that it was brought to you by some one representing that it came from the source from which it purported to come, would you have recognized it as in the handwriting of Mr. Brewster?—A. Well, I think I should; and yet it would have required a good deal of study to do it. I think, however, that I should have recognized it. The letter is not written or signed in the way in which Mr. Brewster ordinarily writes. I cannot recall that I ever had another pencil letter from him, either before or since, yet I may have had; he used to write me a great many letters.

Q. But this is not in the usual handwriting of Mr. Brewster?—A. Oh, no. When I first took it in my hand it did not occur to me that it was Mr. Brewster's letter. It is signed "B. H. Brewster." I never knew him to sign in that way at any other time; in fact he told me that he never did.

By Mr. MILLIKEN :

Q. Does Mr. Brewster now deny that that was his letter?—A. I never heard that he did.

Q. Have you any idea that he does?—A. Not the slightest. I talked with Mr. Brewster after I received the letter, and made reference to his having sent it to me.

Q. Did he deny it?—A. No, sir.

Q. Upon a fuller examination of that letter, are you satisfied that is in Mr. Brewster's handwriting?—A. I am. I have not any question about it at all. Allow me to say that I understand there were two people present when it was given.

Adjourned.

WASHINGTON, *June 20, 1884.*

GEORGE BLISS again appeared voluntarily before the committee and testified as follows :

Mr. Walsh has accused me of saying that I did not propose to protect the witnesses for the Government, and of using an expression about not feeling called upon to "fix up those fellows." Nothing of that sort ever occurred. Mr. Walsh was very earnest in his desire that Buell and Brady and everybody else who had attacked him should be prosecuted. That was during the trial, and the counsel all concurred that it was impossible to do anything of that sort while the trial was going on. However, at one time, by arrangement, Mr. Merrick went into court and called attention to the public attacks upon the witnesses for the Government, but that was all there was of it.

In connection with the question put as to Mr. Bosler, I intended to have called the attention of the committee to the fact that, upon the summing up in the first trial, the Attorney-General used this language:

Mr. Bosler is a reputable man. Perhaps that is one of the reasons he did not want to be mixed up with a disreputable transaction. If Mr. Bosler had come here, being a reputable man, and having a good feeling for some of his associates who were in trouble, he might not like to have told what certainly would not help them, or they would have had him here. He was here in this city. * * He lives in Carlisle, Pa., and is an honest, reputable man. Why is he not here? Are they afraid of his integrity? As an honest, reputable man, he has a delicate feeling for these people, because he has associated with them as other men have, although he did not know the secrets of this conspiracy. He was not trusted. Now he finds glaring him in the face these horrible charges, and can connect his crystal with the other crystals in the case, that come from the North and from the South, and then comes the truth. It will not do to bring him. He did not want to come.

By the CHAIRMAN :

Q. In what connection was that said?—A. The other side had stated in the summing-up that we ought to have brought Bosler here as a witness, and the Attorney-General made this statement in reply to that suggestion.

Q. As you have brought that matter in, just state what was Mr. Bosler's relation to those cases.—A. After Mr. Dorsey went out of the Senate and became openly connected with the contracts he apparently wanted more ready money than he had at his command, and he made an arrangement with Mr. Bosler by which Bosler was to take charge of carrying out the contracts. Bosler was to furnish the money and receive the pay, and was to be paid—I do not know as it ever was stated in evidence, but there was an understanding somewhere that he was to be paid 10 per cent. interest and half the profits. At any rate, in

the account which I saw, I don't remember that the interest was calculated, but it was footed up, showing that Bosler was to get half of the net proceeds of the Dorsey contracts. After that time Mr. Dorsey was away from Washington a good deal, particularly the first summer, and apparently the way in which the business was done was that Rerdell staid here and attended to the post-office business, to the collecting of the drafts, and, largely, to all the details in connection with the routes. He drew the money and sent it to Bosler. The post-office warrants were issued after that time, payable to the order of Bosler, and Rerdell got from Bosler the money required to pay the expenses, and sent Bosler memoranda of the amounts necessary to be remitted to the sub-contractors. Bosler came here from time to time in connection with the business, and when Rerdell was induced to withdraw from aiding the Government, after his interviews with Mr. James and Mr. MacVeagh, and was induced to make an affidavit denying what he had stated or implied to Mr. James and Mr. MacVeagh, we always claimed that the evidence showed that Mr. Bosler had induced Rerdell to make that retraction. One of the statements alleged to have been made by Dorsey to Spencer was that he was all right now, that Bosler had sat up all night with Rerdell and got him to retract.

Q. Was there any evidence of the payment of money to Rerdell for the purpose of inducing him to retract?—A. I do not think so.

Q. You saw no evidence of anything of that kind in Bosler's books?—A. No; nothing of that sort.

Q. No payments to Rerdell?—A. Oh, there were payments, as I recollect, to Rerdell.

Q. Was he paid by Bosler for Dorsey, or on account of Bosler himself?—A. I think he was paid on account of the two; it was chargeable to the interest.

Q. To the partnership?—A. Yes, if it was a partnership. I wish you would send for that book; it is in existence, I believe, at Carlisle, Pa.

Q. Who is the executor of Mr. Bosler's estate?—A. I think it is Mr. Bosler's son or brother, Herman D. Bosler.

Q. Did you examine that book?—A. I did.

Q. Did it contain a record of any political contributions or assessments?—A. As I recollect it, it did. It had in it accounts of Mr. Bosler's interests in some other contracts not connected with the Post-Office Department.

By Mr. FYAN:

Q. Did it show any payments to Cook, or Gibson, or Cole?—A. I have already testified to that. It showed entries of a payment to Cook, and also to Cole.

Q. And to Gibson?—A. And to Gibson.

Q. Do you remember the amount that it showed had been paid to Gibson? He testified to having received \$2,500.—A. I should say from recollection that Mr. Gibson's payment was \$3,000, but it may have been only \$2,500. I will not undertake to say.

WASHINGTON, *June 20, 1884.*

WILLIAM W. KER again appeared and testified as follows:

The WITNESS. When I appeared before this committee to testify, I understood that my testimony was to be given in relation to facts that occurred and upon which the expenditures in the Department of Justice

were based, and I thought that it was my duty to testify fully before this committee, to all facts within my knowledge that in any way had relation to any such expenditure. I believe I have done so, and in doing that I was compelled to mention two or three incidents that operated upon Mr. Merrick's mind and caused Mr. Merrick, who was the senior counsel in the case, to incur an expense which has been credited to me, and of course has been criticised. I felt that it was my duty to explain to the committee how that expense was incurred, knowing that the gentlemen who were interested in the matter would be able, probably, to set it right and furnish the necessary explanation. For some reason that I cannot understand, Colonel Bliss has assumed that I made a wholesale attack upon him. In that idea he is entirely mistaken, and I do not think my testimony will bear him out. In his statement before this committee, the day before yesterday, he went over my testimony critically, and many things in it, that in no way related to Mr. Bliss, were treated by him and criticised by him as reflections upon himself. Now, I want to say for Colonel Bliss that he is a keen, bright, sharp lawyer of great ability and untiring energy. During the progress of the case he became familiar with the papers in a manner that was simply wonderful. There was no person connected with the case who had the same command of the papers that Colonel Bliss had. He seemed to know every one of them by heart, and was able to pick them out, no matter when called upon, and it is no wonder that Mr. Merrick thought that he was a very useful gentleman in the case. We relied in that respect in a great measure upon Colonel Bliss, because he had the facility of understanding these papers and handling them, and in fact there was hardly anything connected with the case that Colonel Bliss was not cognizant of. I mention that in this connection now, so that the committee may see as I go along the reasons that probably actuated Mr. Merrick in what he did, and that guided me. Now, I want to answer Colonel Bliss's statements in regard to myself—those that require answering—because I shall allow the matter in my testimony already given that he has wrongfully chosen to attribute to himself to stand, as those who may read it hereafter, or at least the committee, will see that I have in no way alluded to him there, and that therefore his criticisms or answers on those points do not require any further answer from me.

Colonel Bliss started out by saying that "Ker's inaccuracies were long known to the counsel." Now, Mr. Chairman, and gentlemen, if I was inaccurate, and that was known to Colonel Bliss, it was his duty to have informed the Attorney-General of that fact, and have me dismissed from the case. If I was inaccurate, certainly Mr. Merrick would be likely to have said something of the kind, and if he has not said it I hope he will come forward and say now if he thinks there is any truth in it. Colonel Bliss says that he has received a letter from Mr. Woodward relating to that point. We have not had the pleasure of seeing Mr. Woodward's letter, but Colonel Bliss makes the statement that Mr. Woodward said "he had long known that Mr. Ker was inaccurate." Mr. Woodward is a very intelligent, upright gentleman, one who rendered great aid in this case, and a man remarkable for his intense precision; a comma out of the way would lead Mr. Woodward to think that the person was inaccurate; therefore, I do not doubt that Mr. Woodward thinks that in some minor particulars I am inaccurate, and I do not claim that in some such instances I am not inaccurate. But I do not think that Mr. Woodward would come here and deny the gist of the statements that I have made before the committee, or the facts that I have narrated to them. Colonel Bliss says that he did not fur-

nish the bill of fare of the Dorsey dinner to Mr. McSweeney. Now, I stated in my examination that I did not see Colonel Bliss furnish it. If he had contented himself with denying that, I would have nothing further to say about it; but he has chosen to characterize my assertions as "manufactured," and as "false," and he having made that direct attack upon that portion of my testimony, it is now my duty to show that it is not manufactured and is not false. He has also insinuated that probably I furnished that bill of fare to McSweeney, and he has stated that I was intimate with Mr. McSweeney. Judge McSweeney was a stranger in Washington like myself. I met him at the hotel. I found him a very pleasant and agreeable gentleman who agreed with me politically, and, upon a number of occasions, I spoke to Mr. McSweeney, and tried to the best of my ability to make his stay here as pleasant as was in my power. Beyond that there were no other relations existing between Judge McSweeney and myself.

Having my attention called to this matter by the imputation cast upon me, I have thought over every circumstance connected with the production of that book, and I remember now that Mr. McSweeney told me, standing at the corner of Fourteenth street and the Avenue, at Willard's Hotel, that he had received that book from Colonel Bliss. Mr. McSweeney lives in Ohio; he is a well-known lawyer, and I am certain that a letter from the chairman of this committee would get from him the entire truth of the matter. I deny most emphatically that I gave the book to Mr. McSweeney, or that I ever saw it until it was thrown on the table.

By Mr. FYAN:

Q. Thrown on the table when?—A. During the argument of Mr. McSweeney before the jury. On page 2780 of the record of the first trial, Mr. McSweeney, in his argument says:

Dorsey has found the lines of the poet to be true, that he who ascends the mountaintops shall find the loftiest summit crowned with ice and snow: he who surpasses or subdues mankind must look down on the hate of those below. He has been stabbed in the house of his friends. Here is a little book [exhibiting a small volume] that you will look upon, inscribed "George Bliss." It is not in evidence. Scarce had the shoes grown old that stamped their loud approval of Senator Dorsey, two months, nay, not two months ago, until the roar of accusation burst out against him.

That is the incident and that is the paragraph that I referred to; that is the book that I referred to, which Mr. McSweeney exhibited, and threw upon the table, and I say now, if you will write to Mr. McSweeney he will tell you, I think, as he told me, that he got it from Colonel Bliss. Now I submit, gentlemen of this committee, whether what I testified to before you is false or whether it is true. If Colonel Bliss has any answer to make, let him make it.

Mr. BLISS. I ask the committee to compare that statement with Mr. Ker's original statement on this subject.

The WITNESS. Let me go on to another point. In speaking of the interview in the New York Herald, that I testified to as one of the things that made Mr. Merrick and the Attorney-General both angry, and a thing which at that time had a serious bearing upon the case, of course I did not assume to know, nor do I now know, whether Colonel Bliss actually stated to the reporter what was published in that interview, or not. He denied it afterwards in a card. I did not introduce that here to injure him. I introduced it as one of the moving causes that had operated on the mind of Mr. Merrick. Colonel Bliss denies that the effect of that interview was such as I have stated in my testimony. He denies that there was any such use made of that interview as I have

stated. He goes so far as to say that he has conversed with Judge Wylie, and that Judge Wylie says there was nothing of the kind. Well, I don't know what he told Judge Wylie, but I do know that if Judge Wylie were brought here he would tell the truth of the matter. Now I do not want to permit this controversy to stand as a simple question of veracity between Colonel Bliss and myself. At the time Colonel Bliss was not in court; I was; I saw what took place, and I hope, Mr. Chairman, you will ask the Attorney-General, when he comes to be examined, whether he remembers this incident. Now let us see what did take place. I told you, Mr. Chairman, that Mr. Wilson, one of the counsel for the defense, attempted to use this interview before the jury. He held the paper in his hand and started to read it. Now, we will stand by the record, as much as is in the record. On page 2884 of the first trial, Judge Jere. M. Wilson is addressing the jury, and he says:

As to Dorsey, my brother Merrick thought that this testimony was a very flood which was to drown him, but Brother Bliss thought it was not very much of a shower, so far as Dorsey was concerned. My brother Merrick had a great deal to say about the newspapers, and he has told you a great deal about what the newspapers have said and are saying in regard to this case. Well, the newspapers, it happens, saw this very wide difference that existed between Mr. Merrick and Mr. Bliss upon this subject, and one of them went so far as to say that they were going to watch and see whether the learned Attorney-General was going to side with Bliss in saying that this was not so much of a sprinkle, as far as Dorsey was concerned, or whether he was going to side with Merrick and say that it was a flood, so far as Dorsey was concerned; and that brought out this [taking up a newspaper slip]: "Alexandria"—

The ATTORNEY-GENERAL (interposing). Wait! wait! Is that proper, your honor?

The COURT. No.

Mr. WILSON. Never mind; I will pass that over. I thought that as so much liberty had been taken as to what the press had said, it would not be out of place for me to follow in the footsteps of my illustrious predecessors.

Such is the statement in the record of what took place there. Judge Wilson had the New York Herald interview in his hand. He referred to the editorial that I read to you here, which wanted to know whether the Attorney-General was going to take sides with Mr. Bliss or with Mr. Merrick. He stated the substance of the article. There was not a man upon that jury who hadn't it within his power, and I have no doubt they did have the curiosity, to read the article which had excited so much comment, and which was attempted to be read before them and suppressed. Now, as Colonel Bliss was not present, of course he did not know what did take place in court; but before he got on this stand and, on his solemn oath, stated that I had told a falsehood here and "manufactured" my statement, he might have read the record. That is the second instance in which I think I have shown that what I have stated before this committee is absolutely true.

Colonel Bliss says that he furnished me with a list of the witnesses. You know, gentlemen, I told you that I had subpoenaed the witnesses. Mr. Merrick told me to subpoena them, and I have told you that after they came here I took them to my room and examined them. I did not say and I do not say that Colonel Bliss had nothing to do with subpoenaing the witnesses. I said that I was to subpoena the witnesses. So I was. He was not, and I was. He sent me a list of the witnesses that he thought ought to be subpoenaed. I was thankful to get it; glad to get it. I took it and used it. There was no trouble about that. I did not say that there was anything wrong with him in relation to the subpoenaing of witnesses. I did not accuse him of anything. He read you my letter and he read his own letter to me. Nowhere in my testimony is there anything said that reflects on him about that. I have here a letter

from Colonel Bliss; I went to the Department of Justice and I saw it in a drawer and opened it. I was astonished to find that one of the few letters that I received from Colonel Bliss was lying there, and probably, as he has read mine here, I may as well read his:

MY DEAR SIR: If the Government would pay my bill I would advance Semple what is needed. Otherwise, you must do the best you can. I have no faith in the Colorado marshal or any others there. They are all against us.

Yours, truly,

GEO. BLISS.

WM. W. KER, Esq.

That letter was sent to me by Colonel Bliss from 160 Broadway, New York, and by it you will see that I was engaged in the business of getting the witnesses; so that his own letter corroborates what I say. I know that I had trouble in getting the money to pay witnesses; I had to advance it to them, and Colonel Bliss here offers to advance them money if the Government will pay his bill. Well, as I had nothing to do with the Government paying his bill, I could not avail myself of that offer, and I had to pay that money myself, part of it, and part of it was obtained through an order from the Attorney-General—I believe it came from the President of the United States. Probably that was at Colonel Bliss's suggestion. If it was, I am very much obliged to him, because it aided me materially in settling with the witnesses.

Then, again, he says that he did not give me the name of M. C. Rerdell to be placed in the first indictment. You will remember that I testified that I came here a stranger. I had nothing to do with the cases until I came here to prepare the indictments. I conversed with Colonel Bliss and he furnished me the names; otherwise I should have had no way of getting them. He went over the case with me and talked about the names to be put in, and among others given to me was the name "M. C. Rerdell." Now, of course Colonel Bliss denies most emphatically that I spoke to him about the name of Rerdell, or about getting his Christian name. I made no attack upon Colonel Bliss as to M. C. Rerdell—about not getting his Christian name. If the colonel did not know the name that was a full excuse. But he was not content with that. He must indulge in reflections against me, and now I want to show who tells the truth. Colonel Bliss says that he asked three of the clerks that were assisting me at that time and that they say they never heard any question raised about the christian name. Well, that is probably true. I do not think I discussed that matter with the gentlemen who were merely copying the indictments. I do not think that I went to the clerks for information concerning these cases. I went to the gentleman who was assigned to direct me, and that was Colonel Bliss, and I got my information from Colonel Bliss, or from Mr. Woodward, or from Mr. Shallcross, or from Captain Tidball. Those were the persons who I supposed could give me information. Now, I do not doubt that Colonel Bliss did go and ask some of those clerks, but he was not kind enough to mention their names, and, therefore, I could not, in the short time that I have had, run around and hunt them up; but even if I had the time I do not think I should have done so, because, as I say, I do not recollect that I mentioned the question to them at all.

Now, if this committee are to decide who tells the truth in this matter, let them decide it on the preponderance of evidence. On page 352 of your record, in Mr. Woodward's testimony, I find this:

Q. He was indicted by his initials, as were also one or two others?—A. Yes, sir.

H. Mis. 38, pt. 2—47*

By Mr. FYAN:

Q. Whom is he speaking of?—A. I do not think that is material; he was speaking, I think, about the name of Sanderson, but the material point is stated in his next answer, and which will appear, when I come to read it. Mr. Woodward goes on:

With regard to the indictment by initials, Mr. Ker asked me once or twice what the first name of M. C. Rerdell was; I never saw his name signed in any papers except "M. C. Rerdell." Afterwards the clerks hunted among the bids and they found some proposals which were signed "Mont. C. Rerdell." One or two of the grand jurors asked me about this also. I was very busy and did not pay much attention to it. I suppose I am responsible for the misnomer of *Vaile*. One of the jurors asked me what his name was, and I had never seen it in the papers except as H. M. Vaile; but I made some inquiries, where and how I do not recall, and as a result reported to the grand jury that his name was Henry. So that that mistake originated through me.

There is the magnanimity of the true gentleman; he takes the blame to himself of having given the wrong name of Vaile, and corroborates me in my assertion that I inquired about the Christian name of M. C. Rerdell. Colonel Bliss says the name was found in the city directory. Colonel Bliss was my superior in this case. He was the man who took the indictment to the grand jury. He says he said to me, "Ought you not to put in 'whose Christian name is to the grand jurors unknown?'" and that I said, "No; it is not necessary." He told you the day before yesterday that he made that suggestion before he took the indictment to the grand jury. Well, as a matter of law, I say again that it was unnecessary. If that averment had been put in it would not have stopped Rerdell from putting in his plea in abatement, and therefore I thought it was unnecessary, and I think so yet; but, with Colonel Bliss's attention directed to the fact that M. C. Rerdell was indicted by his initials, and with the information in his possession that Montfort C. Rerdell's name was to be found in the directory, look at the position he placed me in by refusing to give me that information.

Mr. BLISS. Gentlemen, let me say——

Mr. FYAN (interposing). I object. Mr. Bliss himself objected to interruption the other day.

The CHAIRMAN. There is objection. You can make your statement later, Mr. Bliss.

The WITNESS. If he says he did not know of the name being in the directory at that time, then it was only introduced here for the purpose of stabbing at me. I did not know it. Of course, as I say, I did not converse with the clerks, and therefore I have not thought that there would be any use in appealing to them for information. In order to substantiate his position, Colonel Bliss might just as well have gone and asked the watchman in the lobby, or the doorkeeper. I never talked to either of them about the matter.

The next thing he says is that he did not say that Mr. Walsh was a "man of bad character who could not be believed." Now, I told you that I was to examine the witnesses, by direction of the Attorney-General, but that Colonel Bliss said that he would examine them himself. He has produced before you a paper I never had the pleasure of seeing before. It purports to be the statement of Mr. Walsh, written out by A. M. Gibson, and said to have been corrected by Mr. Walsh, after having it read to him by Colonel Bliss. That I think was in 1881. Therefore, in 1882, the time I was speaking about, somewhere about April or May or June, 1882, Colonel Bliss *did* know Mr. Walsh, and *did* know something with reference to the testimony that Mr. Walsh would be likely to give. Well, I reiterate, Colonel Bliss told me that "Walsh was a man of bad character and was not to be believed." He says he did not tell me that.

It is a question of veracity between us. Somebody will have to settle that question, but in settling and deciding the question I will ask the committee to remember that Mr. Walsh claims that there were some disparaging remarks made about him by Colonel Bliss, and that he took offense at those remarks, and that that was a reason why he did not want to appear in the case. You will also remember that Mr. Merrick testified that he had to conciliate Mr. Walsh in order to get him to testify; and if Mr. Merrick had to conciliate Walsh, why, of course, the inquiry would naturally arise, upon what ground was Mr. Walsh offended and why did he have to be conciliated? It is very evident that Mr. Walsh and Colonel Bliss were not good friends. Colonel Bliss says Mr. Walsh attacked him. Mr. Walsh says Colonel Bliss began it. The evidence shows that there was bad feeling existing between the two, and I must naturally have known that. I say I did know it, and when I spoke about Mr. Walsh to Colonel Bliss I received the reply I have quoted. You will also remember, gentlemen, that throughout the cases Colonel Bliss was in the unfortunate position of quarreling with every material witness that the Government had. He opened his quarrel with Mr. Walsh. He quarreled with Mr. Boone. He quarreled with Mr. Price. He was opposed to accepting Price, and it kept Mr. Merrick busy propitiating the witnesses that Colonel Bliss had been driving off. If it had not been for the exertions of Mr. Woodward, who introduced or brought Mr. Walsh to Mr. Merrick, the Government would never, I think, have been able to have secured the testimony of Mr. Walsh at all. Taking all these facts into consideration, I think there will be little hesitation in accepting my statement that Colonel Bliss must have said something to me in regard to Mr. Walsh; but if he did not say any such thing to me, then I deserve the most severe censure for not having made some effort on my own behalf to get Mr. Walsh as a witness.

The next thing that Colonel Bliss claims is, that I reflected upon him for not sending for Mr. Moore. I did not reflect on him for that. I did not mention about his not having sent for Mr. Moore for the purpose of casting any reflection upon him. He has read to you what the post-office inspector wrote about Moore's general character. I suppose that the post-office inspector was a fair and reliable man. We found them all, with one exception, to be such. A better body of men never existed than the post-office inspectors; they are fair, honest, manly men. I presume that the post-office inspectors found out that Mr. Moore was considered a "bad man" by the people he was then living among. So he was a very bad man to attack, quick on the trigger, and a bad man—a rough customer, who was used to the mines, and thought nothing of pulling his revolver out and giving the contents of it to whoever attacked him. In that sense he was "bad." The Post-Office inspector made a report about him, and he was not brought here at the first trial. I do not say that it was any fault of Colonel Bliss in particular, but if Colonel Bliss had permitted me to have examined the witnesses, in all probability I should have taken more pains to ascertain what kind of a man Mr. Moore really was, and to get into communication with him because of the evidence that he was supposed to possess. He was alleged to have some letters written to him by Mr. Stephen W. Dorsey, and we were anxious to get those letters to use them in evidence against Mr. Dorsey. No matter how bad Moore might be, the letters would speak for themselves. Well, we might have got Moore, but, as I said, Colonel Bliss quarreled with Mr. Boone. He had indicted Boone (I had prepared the indictments), and Mr. Boone was characterized as the head and front of the great combination to put in bogus securities.

Mr. Boone was indicted and followed up, although it was Mr. Woodward's strong desire at that time to get into communication with Mr. Boone in order to get Boone's testimony, as it was supposed that he was a man who could tell a great deal if he wanted to speak. Mr. Boone would not talk to us. Mr. Woodward faithfully persisted in his efforts, and finally brought Mr. Boone into contact with Mr. Merrick. Mr. Boone naturally felt aggrieved at what had been said about him and at his having been indicted, but after a great deal of coaxing and persuasion he was induced to tell us a part of what he knew; and when he did tell us a part of what he knew we found that it was one of the most damaging pieces of testimony that could be imagined against Stephen W. Dorsey. He testified, but he did not testify to all that he might have testified to. Boone was Moore's particular friend. Mr. Moore trusted in Boone, and through Boone we could get Moore; but without Boone we could not get Moore. Therefore, if we had been in communication with Boone we could have secured Moore. Now, as I said before, I do not ascribe that failure to Colonel Bliss in particular. I merely say, in answer to what he has stated in regard to my reflections about Moore, that it is just possible that we might have been able to have secured Moore at the first trial if Colonel Bliss had allowed somebody else to have relieved him of the burden of examining the witnesses and taking charge of them. Finally, on the second trial, Mr. Moore did come here. We got Mr. Boone to send for him. It appears that in moving, Mr. Moore's papers were lost, for he was a man of a roving character. The letters that we wanted were not to be found, but he proved a very valuable witness. Of course it did not make any difference as to the final result who testified, but there were other people to be satisfied besides the jury. You, gentlemen, members of Congress, were to be satisfied, and the people were to be satisfied that there was a case made out against the parties accused, and Moore contributed his full quota of evidence to making a case against Mr. Stephen W. Dorsey. His testimony bore directly against Dorsey, as the testimony of Boone did, and even Colonel Bliss says that Moore was a valuable witness.

Next, Colonel Bliss denies that he did not bring out all the testimony in the case. If he had not denied that I would not have said a word more about it. I did not charge *him* with not bringing out all the testimony in the case. I did not make any such allegation against him. I said that it subsequently appeared upon my examining these witnesses that "they had not testified on the first trial to all they knew." If he had let the matter stop there, I think he would be a happier man to-day. Now, of course, I could go over this record *seriatim*, and read the testimony of all these witnesses. I thought I had banished the case from my mind for good and all; I hoped I had, but, in recalling these facts for my protection, I remember one instance of a man named Coll McLellan. Now, I will not tell you what *I* think about it; I will read it to you.

On page 2656 Mr. McLellan's examination in chief is going on.

The subject was a conversation between John W. Dorsey and the gang of laborers who were building stations along the route at a time when the service was only once a week, I think, and the pay a couple of thousand dollars, and as they were building these stations, at, I think, a cost of \$6,000, the men could not see how the contractors could spend \$6,000 while they received only \$2,000, so they became afraid of their wages and had a row, and John W. Dorsey told the men this around the camp-fire, in order to quiet them, and the truth of the matter was that John W. Dorsey's words came out precisely true. The route was

increased up to \$150,000, made tri-weekly and daily, just as prophesied by him.

By the CHAIRMAN:

Q. Was that evidence brought out on the second trial and not on the first?—A. Yes, sir. Now, Colonel Bliss examined Coll McLellan at the first trial and also at the second trial, and I want to point out to you in this instance how mistaken Colonel Bliss is, and how grateful he would probably be to himself if he had omitted his attack on me.

On page 2656 of the second trial, in McLellan's examination-in-chief, he was asked whether he had any conversations with John W. Dorsey, and then the following took place:

Mr. HENKLE. I object, on account of the date, and reserve an exception.

A. Yes, sir; we had different conversations.

Q. What did he say?—A. I cannot give the exact conversation.

Q. Well, give the substance of what you remember.—A. He told us that he intended to have the service increased. In about three months, I think, he expected a tri-weekly service; and in about three months after that he expected a daily service.

Q. Did he say anything about the profits or cost of it?—A. Yes, sir; he said that while they were having a weekly service they expected to lose money on it, but when it was increased and the time expedited they expected to make a very good thing of it.

Q. Were any sums named?—A. I think he mentioned \$150,000 as the sum to be realized.

Q. Did he say anything about how he expected to get it increased?—A. Yes, sir; he told us that his brother, Senator Dorsey, was chairman of the Post-Office Committee, I believe it was, and through his influence he expected to get the increase, or partly through his influence.

Q. Did he say anything as to who was interested in the route?—A. He did not say who all of the parties were.

Q. Did he name any?—A. I don't remember any except Senator Dorsey and the Second Assistant Postmaster-General.

Then on page 2661, in the cross-examination by Mr. Wilson, McLellan was examined as follows:

Q. You were here for three months, as I understand you, during the former trial?—A. Somewhere near that; about that; I do not remember how long.

Q. You were brought here as a witness, were you?—A. Yes, sir.

Q. And remained here for three months?—A. Yes, sir.

Q. And were constantly seeing these Government officers, were you?—A. I have seen them frequently, although I have had very little conversation with them.

Q. I am not talking about that. You have frequently seen them?—A. Yes, sir.

Q. And they asked you what you knew, did they not?—A. No, sir.

Q. Before you went on the stand?—A. No, sir.

Q. They never asked you a question about what you knew?—A. No, sir; I don't think they did.

Q. Nobody?—A. I don't think they did. I may have had an interview with Woodward; I don't remember.

Q. Don't you know you did?—A. I don't remember it.

Q. Do you not know you did have an interview with Mr. Woodward in which he interrogated you as to what you knew?

Mr. DAVIDGE. Think well.

A. I do not remember it.

Q. What makes you think you might have had it, if you do not remember it?—A. He sent word to me, I think, that he wanted to have an interview with me, but I do not think that we had the interview; I don't remember.

Q. Before you came here had you had an interview with somebody, and told him what you would swear to?—A. Yes, sir.

Q. So the Government had interviewed you before you came here with reference to what your testimony would be?—A. Yes, sir.

Q. And you told them, did you?—A. Yes, sir.

Q. Who was the man who interviewed you?—A. I don't remember his name; he was a post-office inspector.

Q. You told him what you have here testified to, did you?—A. I gave him all these facts.

Mr. MERRICK. Was not all that gone into?

The COURT. I will permit it.

Mr. MERRICK. Has he not been fully examined upon it?

The COURT. I shall allow it to go in.

Q. Was not that man's name Furey?—A. I don't think it was.

Q. Did he not live in Omaha?—A. Yes, sir.

Q. At all events he interrogated you as to what you knew?—A. Yes, sir.

Q. And you told him?—A. Yes, sir.

Q. And then you came on here as a witness. You were subpoenaed, were you?—A. I was subpoenaed and came on.

Q. And you remained here three months?—A. Something about three months.

Q. And you were in that room probably twenty times, and during that number of times you never mentioned this particular conversation which you have undertaken to give in the words of John W. Dorsey, did you?—A. I did not.

Then the examination went on as to how many witnesses were congregated in the room when I examined him. What he told me I wrote out, and at the second trial Colonel Bliss asked the question. Now, Mr. Woodward has testified that there were abstracts of these cases prepared and that the post-office inspectors furnished the reports. Colonel Bliss testified that the inspectors furnished their reports of the testimony of the people to be examined, and that he examined the witnesses from those reports. That was his answer given to you here the day before yesterday, that he had examined some of the witnesses himself, that he had put them before the grand jury, and that he was guided by the testimony taken down by the post-office inspectors. If that were the case, then I suppose Colonel Bliss will tell us how it was that he failed to ask that witness that question.

Mr. BLISS. May I answer that now? It was because I had before me Mr. McLellan's sworn statement by which I examined him; which was a statement taken and transmitted by Post-Office Inspector Siebold, and in which McLellan did not state any such matter as that which he subsequently swore to on the second trial. I went all over McLellan's testimony; his statement of what he could testify to, with that affidavit before me, and he never lisped a word about that matter that he testified to on the second trial. That is my answer. There [indicating it in a printed document] is the affidavit I examined him by.

The WITNESS. (Looking at the affidavit.) I don't know how many statements he had, whether he had one or a dozen. I do know that the man was interrogated by Colonel Bliss and was examined at the second trial, that Colonel Bliss examined him and that he made this statement and said in open court that he had never been examined by Colonel Bliss on this point—told that to Colonel Bliss himself. And I mention that to show that Colonel Bliss is mistaken when he says that my testimony about the witnesses is false. I correct him from the record.

By the CHAIRMAN:

Q. Did Coll McLellan state to you that he had made this statement to Mr. Siebold, the inspector?—A. I have read his testimony given under oath in open court where he was examined by Colonel Bliss himself.

Q. Did he state to you before he went into court that he had made that particular statement to Siebold?—A. Oh, yes. He said he wondered why he had not been asked about it. He told me when I examined him privately that he was surprised, and when he gave me the names of the people that were around the fire he gave me the name of a man called Cabell, and some other names, and I sent Joe Pennell out to hunt them up, but they were scattered all over the country and Pennell was able to find only Cabell. Now, Colonel Bliss has designated this man Cabell as a bad witness, a witness as to whom Judge Wylie

said it was an unfortunate thing that we examined him. I do not know whether Judge Wylie said that or not. I do not want to express an opinion about that. The judge can tell himself whether he did or not. But whether Judge Wylie said so or not is immaterial to this question. Colonel Bliss says that I deserve the credit and that he accords me the credit of bringing before the court the witness Cabell. Very well. On page 2666 of the record of the second trial Mr. Cabell gave his testimony. He corroborated all that Coll McLellan had said, gave the time and the circumstances and also another conversation that he had with John W. Dorsey; all of it bearing severely upon John W. Dorsey, Stephen W. Dorsey, and Thomas J. Brady; the purport of it being that there was a ring here in Washington by which the service was to be increased, the number of trips, the price, &c. Of course I must accept whatever Colonel Bliss gives me in the way of credit. I did not mention that matter with any idea of claiming credit, but I mentioned it with the idea of showing to this committee the amount of labor that I had to perform and what my duties were in connection with the case. But if I was wrong in bringing Mr. Cabell here, if I committed a grave mistake in that, then my superior in the case, an old, able, well-tried lawyer like Colonel Bliss, should never have put that witness on the stand and examined him. If he wanted to throw upon me the blame of bringing that witness here to testify, he might have been gracious enough to have allowed me to examine him in court and shouldered the entire responsibility. It won't do for Colonel Bliss to come to this committee and cast reflections upon me on that ground, when he himself is the man who examined this witness before the jury. And I say that Mr. Cabell's testimony never was attacked, and the colonel cannot point to a page in this record that will show that his testimony was attacked, good, bad, or indifferent, outside of the insinuations of the defendants' counsel, and of course they were welcome to these insinuations, for they made them concerning everybody.

Colonel Bliss denies that he wanted to let Mr. Dorsey escape. He has read you his letter to Mr. Merrick about my testimony upon that subject and Mr. Merrick's reply. Now, I never have said that Colonel Bliss wanted to let Mr. Dorsey escape. I only told you what Mr. Merrick narrated to me in a conversation between us; I do not wonder that it angered Colonel Bliss, but that was no reason why he should fire at me. He could have attacked the man who said it if he was not afraid. Instead of that he has attacked me, the youngest lawyer in the case; and he was not satisfied with attacking me alone; he wanted to vent his spite at everybody that had anything to do with the case. I testified in this case coolly, and without any feeling against him at all. I did not want to say anything derogatory to Colonel Bliss, but I did not want this committee or anybody else to be able to accuse me of suppressing testimony or not telling the whole truth that I was subpoenaed and sworn to tell, so I told it. Colonel Bliss says that Judge Wylie says such a charge against him was preposterous. I don't know whether Judge Wylie said that or not, but I presume if he were brought here he would say so, for how would the judge know whether Colonel Bliss wanted to let Mr. Dorsey go or not? I cannot imagine what he could know about it. He took the case that was brought before him. But did not Mr. Merrick corroborate what I said? Did not Mr. Merrick tell me what I testified to? There was no untruth in that. Mr. Merrick does not deny that he told me something of the kind. He does not deny it; therefore that part of my testimony is unchallenged. Colonel Bliss says that he never dreamed of letting Dorsey go; that he never heard of it until it

was "trotted out" in my testimony before this committee under the inspiration of Brewster Cameron. And to show the feeling that actuated the colonel, he mentioned Brewster Cameron as having inspired me, and then dashed into the jury bribery cases and said repeatedly to this committee that the names he heard mentioned in connection with the bribery case were those of Brewster Cameron, Ker, and a lawyer named Falls. He repeated that to the committee, and when closely pressed after my statement, he reluctantly admitted that he heard also the name of Mr. Merrick mentioned in connection with it. Now, I don't know whether he was afraid of Mr. Merrick; but if not, I do not see why he left Mr. Merrick's name out unless it was because of his strong desire to hurt me—to stab Brewster Cameron by giving the idea that we were actuated by improper motives. As I said before, I did not know that Colonel Bliss and Mr. Brewster Cameron were enemies. I want to say this right here: neither the Attorney-General, nor any person connected with the Department of Justice, or with any Department of the Government of the United States, neither Brewster Cameron nor any living soul, ever instigated me to testify before this committee. No living soul inspired me to testify before this committee, and if anybody had inspired me he would have simply inspired me to tell what I did tell—the plain, simple truth. Now, I said I did not know what could actuate Colonel Bliss to make this attack upon Mr. Brewster Cameron, but I have thought the matter over and concluded that as Brewster Cameron is thousands of miles away from here, attending to his public duties, and as Colonel Bliss knew that he was out of the city and incapable of defending himself before this committee at present, the colonel thought it would be safe to attack him. Now, inasmuch as Colonel Bliss has said that my name was mixed up with that bribery matter, and that this committee ought to investigate the whole matter, I proposed to tell the committee what I know about it.

During the trial Mr. Cameron came to the office of Mr. Merrick, one afternoon after court, and said that a man named Bowen had come to him and told him that Mr. William Dickson, the foreman of the jury, wished to see him about something connected with the jury—some attempt to bribe them. Mr. Cameron said that the Attorney-General was away and that he did not want to go and see Mr. Dickson without advice from Mr. Merrick. Mr. Merrick, without waiting to hear all that Brewster Cameron had to say, said to him, "Go, by all means, to see Mr. Dickson." Mr. Cameron said, "He is the foreman of the jury; I do not think I have any right to talk to him, and it may be misinterpreted." Mr. Merrick was angry at Mr. Cameron's hesitation, and at some remark that Mr. Cameron made about hearing that Mr. Dickson was not a trustworthy man—I cannot recall the words, but it was some sort of a disparaging remark that excited and angered Mr. Merrick. Mr. Merrick said, "I tell you Mr. Dickson is a high-toned, honorable gentleman, and he wants to see you, no doubt, to give you some information that will be of benefit to the Government about an attempt to bribe the jury." At that time there were rumors circulating in the newspapers and around the streets that there were attempts to bribe the jury. Mr. Cameron still hesitated to go, but Mr. Merrick said, "I tell you to go and see him." I coincided with what Mr. Merrick said. Mr. Cameron again made some remark about his not wishing to go. I told Mr. Cameron that I thought it was his duty to go; that if there were any questions at all about it he could refer to Mr. Bowen, to Judge Hoover, of Arizona, to Mr. Merrick, and myself, to show that he went to Mr. Dickson with proper motives. Finally, Mr. Cameron agreed to go, and I thought he

had gone. I found out afterwards, however, that Mr. Cameron did not go. At that time he was under orders to proceed to California, and had his ticket in his pocket and was to leave, I think, by the 7 o'clock train, and I found that instead of going to see Mr. Dickson he went there and called away from Mr. Dickson a man named Bowen, who was also to go west with Mr. Cameron, it being arranged that Mr. Bowen and Mr. Cameron should go out there together upon some business connected with the Department. Mr. Cameron walked in and called Mr. Bowen out, and they went down to the depot and got on the train, went out west, and were gone three or four weeks, and Mr. Cameron never really said a word to Mr. Dickson concerning the case. There is the gentleman [Mr. Dickson] sitting there now; I know he will be manly enough to say so.

Mr. DICKSON to the committee. Do you wish me to reply?

Mr. VAN ALSTYNE. He is willing that you should reply. You have been sworn as a witness, have you not?

Mr. DICKSON. No, sir.

Mr. VAN ALSTYNE. Then your reply cannot be accepted.

The WITNESS. I do not want to anticipate his reply. I had nothing to do with the matter beyond that. Mr. Merrick and I were together. He will tell you the same thing that I have told you. Why Colonel Bliss should want to mix up our names in that connection I cannot imagine, and his attack on Mr. Cameron I can only account for by one other matter, which I propose to tell you. It appears that there was a man of some notoriety and of rather an unsavory reputation, named Paul Strobach, who was a United States marshal, and after the President had nominated him for the position of marshal, and his name had gone to the Senate, there were some charges preferred against him by the Department of Justice, I think through the instrumentality of Mr. Brewster Cameron, who was pushing the Strobach case at that time, so far as I could see by the newspapers. One Friday afternoon I was going over to Philadelphia, and, before going into the car, Colonel Bliss said to me: "I want to come and have a talk with you." He was going over in the same train. He went in the parlor car, and I went in the smoking car. During the course of the journey over, Colonel Bliss came back to the smoking car, and took a seat beside me. He said to me: "Your friend Brewster Cameron is getting himself into a great deal of trouble." I wanted to know what was the matter. "Well," the colonel said, "here is this Strobach case; Brewster Cameron will get himself into trouble about that case." I said, "Why, what is the matter? Is not Strobach guilty? If he is guilty he ought to be prosecuted." "Well," said Colonel Bliss, "after the President has made the nomination and it has gone to the Senate it is no time for the Department of Justice to make an attack upon a man. If they had any attack to make they ought to have made it before he was nominated." I said, "Yes; but, colonel, suppose they didn't know it before he was nominated; what then?" "Well," said he, "after he was nominated there ought not to be an attack made upon him." "Well," I said, "he is a bad man, and I think he ought to be prosecuted." I cannot exactly recall what I said in that connection, but I said that he ought to be prosecuted. Colonel Bliss became somewhat excited and angry, and he said, "Well, it just amounts to this: Brewster Cameron will have to quit the Department of Justice. The Attorney-General will have to turn Brewster Cameron out or the Attorney-General himself will be turned out, and it is only a question of a very short time until the whole thing will be brought about. Now, I do not want to see Brewster Cameron turned out, but

if this thing goes on, out he goes." Well, I hadn't been used to getting Cabinet secrets [laughter], and I was a good deal surprised. Now, let Mr. Bliss deny that if he wants to.

Mr. BLISS. I do not want to deny it, sir. There is my letter to the Attorney-General himself and the Attorney-General's answer. That states my position in the matter. I will send it to the committee. It goes over the whole matter. The general statement that I made was that Mr. Brewster Cameron had, twice in succession, preferred charges against men nominated by the President on the recommendation of the Department of Justice, which charges were based upon grounds which existed before the men had been nominated and on evidence then in the Department of Justice, and I told Mr. Brewster himself that no administration could go on in that way; that either they must make some arrangement by which, before the men were nominated, charges then in possession of the Department should be brought to the attention of the President, or that they should not, after they had neglected to make the charges known, bring them forward after the nominations had been made by the President.

Mr. VAN ALSTYNE. Is it the custom of the Executive to communicate to his Cabinet the names of gentlemen that he proposes to nominate for certain offices?

Mr. BLISS. The practice is this. Every nomination to an office under the Department of Justice that the President makes to the Senate, comes with the recommendation of the Department of Justice to the President that so and so be nominated. All the papers as to that candidate, and all the papers as to the other candidates, are sent over from the Department.

Mr. VAN ALSTYNE. And your comment was made upon the theory that this nomination had been recommended beforehand by the Department of Justice, and that after it had been communicated to the Senate, the Department of Justice, through captiousness or for a wicked purpose, antagonized it?

Mr. BLISS. No, sir; not from captiousness or for a wicked purpose. My point was this: That probably when Mr. Brewster concluded to make the nomination, he did not know that this information was in the possession of Brewster Cameron, and that Brewster Cameron did not know that the nomination was to be made; and I said that they ought to put a stop to such misunderstandings.

Mr. VAN ALSTYNE. Then, where an improper nomination was made by the President, by accident or by reason of his not possessing a knowledge of the facts, would you go to the extent of holding that an officer of the Cabinet should withhold information from the President as to the character of the nominee?

Mr. BLISS. Not at all. My correspondence will show that I said distinctly that the prosecution against Strobach should be continued, but I said that the scandal arose from the information being in the Department of Justice and yet the Department allowing the President to make the nomination without giving him that information. I had had no communication with the President on the subject, but I said, on my own judgment, that that sort of thing could not go on, and that if it did go on the result would be, first, a request for the dismissal of Brewster Cameron, that, as Mr. Brewster was quite friendly and loyal to Mr. Cameron, he would probably decline to make the removal, and that thus there would come about a break in the Cabinet, which I wished to avoid.

By Mr. FYAN:

Q. (To Mr. Ker, the witness.) How do you know the fact that Mr.

Brewster Cameron did not talk to Mr. Dickson?—A. I know it from the fact that Mr. Dickson says in his affidavit that he did not, and I know it also from the fact that Mr. Cameron went away that night, for I looked for him and I found that he had left the city, and I know that he did not come back for three or four weeks after that, because he came back on a telegram from me.

Q. Did he tell you that he had not talked with Mr. Dickson?—A. Yes; and Mr. Dickson in his affidavit, which was put on file in the Department, does not say that Mr. Cameron spoke to him. He says that Bowen spoke to him.

The CHAIRMAN. Proceed with your statement, Mr. Ker.

The WITNESS. Well, it seems that *this* part of my statement is not false. We were sitting in the smoking-car together when this conversation took place, and I remarked to Colonel Bliss that Mr. Cameron was a good man and that the Attorney-General would stand by him and not allow him to go; that from what I knew of the Attorney-General he would be the last man to sacrifice Mr. Cameron because he was doing his duty. Mr. Bliss reiterated the statement that either Cameron or the the Attorney-General would have to go. Of course, I passed some remark about that. I think the remark that I made was that it would be a very good issue for the Attorney-General to be put out of the Cabinet on This was on Friday, and on Monday (I think it was Monday) after Colonel Bliss had returned and was engaged in the trial of the case, it seems that he went up and saw Mr. Brewster Cameron. In the meantime, I had communicated to Mr. Cameron what Colonel Bliss had said, because I, of course, felt an interest in Mr. Cameron, and I felt an interest in the Attorney-General, and I thought that what Colonel Bliss had said to me had been said to me to be told, because Colonel Bliss began his conversation by alluding to my "friend"; and if I know that a friend is going to get into any trouble I am not going to hesitate about telling him. Therefore I had communicated the matter to Mr. Brewster Cameron. Colonel Bliss saw Brewster Cameron, and it did not take Brewster Cameron many moments after hearing Colonel Bliss's statement about him—his having to be dismissed—until he walked into the room of the Attorney-General and told him the whole matter.

By Mr. MILLIKEN:

Q. How do you know that he did that? Were you present?—A. Well, Mr. Milliken, I know it because George Bliss told me so. I am telling my story on good authority. I am not stating anything I cannot prove. It seems that Brewster Cameron went in and told the Attorney-General, and that woke the Attorney-General up and the Attorney-General woke Mr. Bliss up; because Mr. Bliss came and said to me: "What do you think that foolish Cameron did?" Of course I did not know. "Why," said he, "he went right off and told Mr. Brewster the whole of that that I told you about the Strobach case, and the Attorney-General is very angry about it. Now," said he, "I did not tell it to Cameron to have him go and tell the Attorney-General of it." Then I found out that Colonel Bliss had gone and had an interview with Mr. Cameron, in which he apologized for what he had previously said. He was very much humbled and very crestfallen about it, and if that correspondence is produced (I hope it will be), and if it is such as it has been described to me, it will be mighty interesting reading.

Mr. BLISS. I will produce it.

The WITNESS. From that time out there never has been so kind a feeling existing between Colonel Bliss and Mr. Brewster Cameron. Mr.

Cameron accused Colonel Bliss of wanting to run the Department of Justice, but I did not think their enmity had gone to such an extent that Colonel Bliss would wait until Mr. Cameron got out of town to stab him. I thought he would give him a fair fighting chance. Now, there is the connection that Brewster Cameron had with that matter. I again reiterate, for fear I may not be understood, that Mr. Cameron never instigated my testifying before this committee; he did not furnish me a solitary inspiration; and there was nobody else that ever inspired me to testify in this case, and if Colonel Bliss knows of anybody I hope he will tell about it now, and not let me go away and have to come back here. Life is short and I do not want to have to come too often.

Colonel Bliss has referred to the argument of the Attorney-General as embarrassing the counsel in the case. The Attorney-General made the closing argument. I want in this connection to say that I unwittingly detracted from Mr. Merrick a little, though of course I did not mean to do it. Mr. Merrick devoted the greater portion of his speech to attacking Mr. Dorsey. The Attorney-General made the closing argument. Mr. Merrick had preceded the Attorney-General, and between Mr. Merrick and the Attorney-General, I think, there were two gentlemen who spoke. After the Attorney-General had been denouncing Dorsey, Judge Wylie interposed a question. It related to something that Mr. Ingersoll had stated about the overt acts in the indictment. The Attorney-General turned around and said, either to me or Mr. Merrick, I could not tell which, for we were both sitting together, "I want to get the correct date" or "I want to get the correct fact." He said it in a low tone of voice. Mr. Merrick, wishing to assist the Attorney-General, jumped up and wanted to make a statement. Mr. Wilson objected to Mr. Merrick making any statement while the Attorney-General was making his argument. There was a running fire between the court and the counsel as to whether Mr. Merrick should make a statement and finally it was ascertained that the Attorney-General had answered the question before. But the whole of that interruption arose from the fact that the Attorney-General desired us to give the judge correct information on the point. He did not want to make a statement without making it correctly, that was all; and why Colonel Bliss should allude to that here, in his desire to injure the Attorney-General, is something that probably he should explain; and why he should attempt to comment upon a matter which occurred, as I am told, when he was off in Canada, I do not understand. At all events whether he was in Canada or not, he was far away from Washington and knew nothing at all about it, and I think it was a very unkind thing of him to try to throw odium upon the Attorney-General in a little matter like that in which he was not interested, in regard to which he had no personal knowledge, and which he was utterly incapable of talking about intelligently. However, it is only a part and parcel of the indiscriminate and reckless attacks that he has made here upon every body, in his endeavor to answer the testimony that has been given here.

By the CHAIRMAN :

Q. Did the Attorney-General state correctly the facts in his closing argument?—A. Of course he did, but he turned around to Mr. Merrick or myself, or to both of us, and wanted to know the correct date before making an answer to the judge's interrogatory. It is no unusual thing for a counsel in court to turn to his colleague and say, "What is that date?" or something of that kind that will bring a responsive answer

from his colleague, and the Attorney-General had a perfect right to do it.

Before passing from the alleged bribery cases, I want to say to you gentlemen that the entire report of the investigation in those cases is in the hands of Mr. H. H. Wells. His office is on Louisiana avenue, opposite Fifth street. He was special counsel in the case, and he has all the papers that relate to it, the full investigation, and if you think it worth while to go into that question, upon Colonel Bliss's suggestion, I think there will be no trouble in furnishing you those papers.

By Mr. MILLIKEN:

Q. Is that the Wells who has been a witness before this committee?—

A. Yes; he was before the committee.

Colonel Bliss has also denied my statement under oath here as to what took place in regard to using Mr. Price as a witness against Mr. Kellogg. I do not know how he could have the effrontery to deny that in the face of the testimony of Mr. Merrick. Mr. Merrick has testified to what took place, the reasons why Mr. Price ought to be used, and to Colonel Bliss's endeavor to give an explanation of how it was that he opposed Mr. Price being brought in; one theory of his being that the taking of Price would let Brady go, and another that Price was a bad man, in the sense that he was one of the worst of the conspirators, and that he would have to be corroborated. You know Price was indicted for conspiracy to defraud the United States. He was indicted with Thomas J. Brady, and ought to have been indicted along with Mr. Brady and Mr. Kellogg. The object in using Mr. Price as a witness against Mr. Kellogg was to show that Kellogg had violated section 1782 of the Revised Statutes, and in that offense Price would not have been a *particeps criminis*; there would have been no rule of law that would require Mr. Price to be corroborated. He was to testify to Mr. Kellogg's getting some drafts or some money, or making arrangements to get it, and there was no corroboration necessary there. The colonel wants to show that he did not exactly put the case upon political grounds. If he did not put it upon political grounds, then I am very greatly mistaken, but I do not think I am. I do not think that the testimony before you will show that I am mistaken; for Mr. Merrick corroborates that aspect of the case, and if you want any further corroboration, why, we can just turn to the testimony of Mr. Woodward.

On page 353 Mr. Woodward begins his testimony about the Price matter and he states that it was referred to him. On page 354, after narrating what the Attorney-General directed him to do, and stating the information that he gave to the Government counsel that the Attorney-General had accepted Mr. Price as a witness, had resolved to take his testimony, Mr. Woodward was asked about the immunity that was supposed to have been promised Price, and he says:

Of course there was nothing said about immunity, but it was always understood that if any witness was accepted that carried with it immunity. Mr. Merrick took the ground that a high officer of the United States, whether the Second Assistant Postmaster-General, or a member of Congress, or a Senator of the United States, who took bribes under such circumstances, was far more guilty than a contractor who was acting under more or less compulsion although acting voluntarily. Mr. Bliss, on the other hand, contended that the evidence against Price was strong and conclusive, that he was already indicted, and that the Government had no right to give him up to take anybody else; that he was sufficiently guilty to hold him, and that it would be wrong to give him up for the sake of taking Senator Kellogg. That was the ground of difference between them.

Now you see that Mr. Woodward also became aware of the ground of difference that existed between the counsel in this respect.

By Mr. MILLIKEN:

Q. You say that you think Mr. Bliss wanted to let Mr. Kellogg go? Do you testify to that?—A. Do you ask me for an expression of opinion upon that subject?

Q. I ask you if you have so testified; I do not ask your opinion. Have you so testified? I did not so understand you.—A. I did not testify to that; I testified to facts; and I am now establishing the facts that I testified to, and that were denied seriatim by Colonel Bliss.

Colonel Bliss also takes exception to my statement that he left the case. I did not say that he was away for a day or any number of days. I said that *he left* the case. I stated the mere fact that he left the case. There was no time mentioned in what I said that I have any recollection of, but I find that Mr. Woodward stated that he was away for several days. In that I think Mr. Woodward is probably mistaken; I do not think that Colonel Bliss was away so long as that, but he *was* away from the case. He went away because the Attorney-General directed Mr. Price to be taken as a witness, and he seemed to think that there was some affront placed upon him by the Attorney-General in so deciding. But, in fact, when we left the house of the Attorney-General upon that night when we had the conference there, we were informed distinctly that the Attorney-General would make up his mind what to do about the matter and would send us notice, and I did not understand that after that we had anything more to say about it.

In alluding to the kind of witness that Mr. Price was or would be, Colonel Bliss says, if I remember his testimony correctly, that he found that Price had been engaged in some disreputable transaction with the Post Office Department. Now Mr. Price is a sick man; I think he has a cancer in the eye; but his family, as far as I have been able to ascertain in looking into his character before he was called as a witness, are people of respectability and standing.

By Mr. FYAN:

Q. Is this man Price's home in Jefferson City, Mo.?—A. Yes, sir; and I find that his people stand as high there as any people in any section of the country. But, in an indirect manner, Colonel Bliss has brought this recent transaction into this case as a motive why Mr. Price should not be taken, accepted as a witness, and also as a sort of an excuse for his own conduct in the matter, and has attempted to injure Mr. Price in that way.

I have Colonel Bliss's own letters on the subject at my house in Philadelphia. I investigated the matter and I found it to be substantially in this way: Price was a mail contractor prior to the war. Just before the war he received warrants for his pay. Those warrants were drawn upon the treasurer at New Orleans. Some of the warrants had been given to people in the North and some to people in the South. They were warrants for the payment of the money due Price. Before the warrants reached the treasurer in New Orleans, Louisiana assumed to secede from the Union, and the treasurer at New Orleans conveyed the money in his possession to the Confederate States treasury. These warrants in favor of Price were then outstanding. Afterwards there was an act of the Confederate Congress passed allowing the treasurer to pay those warrants, or rather to pay the people who held the warrants, who could show that they were citizens of the Southern Confederacy. That, of course, excluded the people in the North who held the warrants. Some of the people who held them had bought them and did prove that they were loyal to the South, and got the money. Others were never paid.

Now, about the time that Price was in trouble in regard to this indictment, a certain man—I cannot recall his name, but he was a prominent man—came to Price and told him about these unpaid warrants, and told him that under the law he could have them paid, and that all it was necessary to do was to make the claim for the warrants. And among others he indicated a particular warrant and said, “Here is a warrant that has not been paid, and of course you are entitled to the money, as the books of the Post-Office Department show that you have never been paid this;” and in point of fact the books showed he never had been. Price considered the matter, and took the affidavit that was produced before him and wrote at the bottom of it a statement that he had had a number of warrants; that some of them had been paid and some had not; and that if this one had not been paid, then he believed he was entitled to receive the money from the Government. That statement is in his own handwriting at the bottom of the paper. [To Mr. Bliss, who had indicated dissent from this statement.] Oh, don’t shake your head; I have seen it at the bottom of the paper.

By Mr. FVAN:

Q. Where is that affidavit now?—A. It is in the Post-Office Department. I investigated the matter. First, let me explain that at the bottom, before signing the paper, Price states in his own handwriting that if this was one of those warrants that had not been paid, he believed he was entitled to be paid the amount. I thought so, too. I was told that the defense were going to attack Price’s character for truth and veracity by producing this affidavit; so I got the affidavit, and Mr. Worthington, the district attorney, a reputable gentleman, a good lawyer, and an earnest Republican, who was engaged in the trial of the case, agreed with me that it would be impossible to have attacked Price on the strength of that affidavit. And, inasmuch as the character of this man Price has been assailed before this committee, without any reason at all that I can see, I think the committee ought to attach, either to my testimony or that of Colonel Bliss, that affidavit, because the committee ought not to allow people to come here and stab a man without giving him a chance to defend himself.

Q. Did Price say that those warrants had never been paid to him by the Confederate Government?

Q. (Interposing.) As I understand you, the money that was due was turned over by the then United States Treasurer in New Orleans to the Confederate Government?—A. Yes, sir.

Q. And that Government enacted that whenever a man who held one of these warrants could prove that he was loyal to the Confederacy, and that this money was due him, he could get his pay?—A. Yes, sir.

Q. And I understand you to say that some of them did get their pay?—A. Yes, sir.

Q. Did Mr. Price get any pay down there?—A. He may have got some pay there.

Q. Then, what you mean is, that he had not got his pay from the United States Government?—A. No; he had not got his pay from this Government, and I do not know whether he actually held the warrants or not. Some of his warrants were lost during the war. Mr. Price said that during the war, not anticipating ever receiving a dollar from the United States Government again, he had lost some of the warrants. Our object was to get into communication with Price, and to secure his testimony against Brady, and also against Kellogg. Primarily, we were after his testimony against Brady, and indeed what Price would testify to was then practi-

cally unknown to us. It was a question whether we should make overtures to him or not. Mr. Woodward says in his testimony on that point (on page 352 of your record), that about Christmas in 1882 he came and saw the Attorney-General in reference to getting the testimony of Price, and that he then took Price and examined him, taking the papers, as he said, in trust, to return them to Price if the Attorney-General would not accept his testimony. That was in the latter part of 1882; therefore, he must have examined them some time in January, 1883, when the Attorney-General decided to accept Price's testimony. Now, the Kellogg case was before two grand juries prior to that time; the first was the grand jury that met in March, 1882; the second was the grand jury that was reconvened in July, 1882, for the express purpose of indicting Kellogg. Colonel Bliss has made a statement about Mr. Walsh's testimony in regard to Mr. Kellogg before those two grand juries. Just here let me remind you, gentlemen, that there is a difficulty in the way which, if cleared up, will operate one way or the other, either to Colonel Bliss's credit, or to his discredit, and it ought to be cleared up, because of its material bearing upon this case. Before the grand jury that was convened in July, 1882, Walsh was examined as a witness. Colonel Bliss went before that grand jury. Mr. Hutchinson, the foreman of the jury, and, if I am not mistaken, another member of that grand jury, have testified that Colonel Bliss said that Price would be brought before them as a witness. Colonel Bliss has told you that he did not say so, but that he told the grand jury that Price might be produced as a witness before some other jury, but that Price himself would be tried, and that they were not seeking an indictment against him then.

By Mr. MILLIKEN:

Q. Are you testifying to something that you know of your own personal knowledge?—A. I am. I am testifying to what Colonel Bliss said before this committee, and what Mr. Hutchinson said here.

Mr. FYAN. Mr. Hutchinson, the foreman of the jury, and another member of the jury, both, as I understand, swore one way upon this point, and Mr. Bliss swore the other.

Mr. MILLIKEN. I was not here when they testified upon this point. Proceed Mr. Ker.

The WITNESS. That is the testimony that was produced before this committee. Now, at that time Mr. Price was not in communication with the Government counsel. At that time no effort had been made to secure Price's testimony on behalf of the Government. We had not opened communication with Price at that time. But that matter ought to be satisfactorily cleared up before this committee in some shape, because somebody is not telling the truth.

By the CHAIRMAN:

Q. Had you any information, directly or indirectly, to the effect that Price could be made available as a witness at the time that Hutchinson grand jury sat?—A. Of course not.

Q. Had there been any overtures made by any person representing Price, or pretending to represent him, to the effect that he could be made available as a witness?—A. Not that I heard of.

Q. Was there any indictment pending against him then?—A. Yes, sir. But just at that point, if that grand jury did not do their duty, they should be severely condemned, because when they adjourned that ended all chance of the Government to indict Kellogg for receiving the *drafts* from Price. That was the turning point which decided the question of the statute of limitations, and threw the Government into the

position of having to indict Kellogg for receiving *the money*. Now, if Mr. Hutchinson's testimony can be corroborated in that respect, it would certainly show that the grand jury had been grossly deceived, and had been also grossly wronged in being charged with dereliction of duty and want of faithfulness. If, on the contrary, Colonel Bliss's statement is correct, that he did not tell that grand jury that he would produce Price before them, why then, the grand jurors are seeking to throw the responsibility upon Colonel Bliss, and they should be doubly condemned for attempting unjustly to do that. But just there, as I say, is the turning point in the history of the Kellogg case, and at that point there is an open question which will have to be settled between Colonel Bliss and that grand jury.

Colonel Bliss says there was no mention of Kellogg's name in the indictment that I prepared against Price and Brady.

Mr. MILLIKEN. At the March term, you mean?

The WITNESS. At the March term. He says that I am mistaken in saying that I included Kellogg's name in that indictment, and then had to tear up the indictment and write another, leaving out Kellogg's name. He says that Kellogg's name does not appear in the papers. I have already told you what a shrewd, sharp gentleman Mr. Bliss is, and how familiar he is with the papers in this star-route matter. Now, he knows, and he knew in his heart and soul when he made that statement, that William Pitt Kellogg's name does appear in the papers; that Kellogg's signature appears on the application for an increase on one route; and I do not think there is anybody who knows that better than Colonel Bliss. He knows, also, that Mr. Woodward prepared an abstract or brief of the testimony in all these cases. Mr. Woodward told you that he prepared an abstract in those cases; and let me read what he says, lest it should be charged that I am misquoting him:

The papers so prepared gave a brief but comprehensive history of each route by itself. In this way I examined the exceptionally bad service of the Dorseys, and, to a less extent, of the Parkers, James B. Price, Roots and Kerens, the Salisburys, and others. This work I continued till called into court in June, 1882, when, with a few slight exceptions, it was permanently suspended. The papers were placed at the disposal of Col. George Bliss, special assistant United States attorney.

Now Mr. Woodward tells the truth. It will not do to say up in Hartford where he lives that he does not tell the truth. On page 358 there is more of this testimony. Mr. Woodward is a Republican too, and, by the way, one of the fairest that I have ever met. In all my acquaintance with him he never seemed to entertain any other idea than that of doing his duty, and doing it properly and faithfully. I am sorry that there is an exception.

By Mr. MILLIKEN:

Q. Do you mean by that that the Post-Office officials generally do not do their duty?—A. No, sir; I do not. They were generally very faithful men. There was only one exception that I know of. The exception I refer to was the officer who made a report upon the route from Tres Alamos to Clifton, in Arizona. He was not considered thoroughly reliable. I do not mean Captain Tidball, who made a subsequent report on that route, but the gentleman who made the first report. With that exception, I say that the Government of the United States is fortunate in possessing such a body of men as its Post-Office inspectors.

Q. Then Mr. Woodward, being one of those, is not really an exception?—A. Oh, well, there are a great many good Republicans. When I see a good Republican I am always sorry that he does not turn over and

come with us. [Laughter.] I have in my connection with the Government service met some as good men as it has ever been my fortune to meet anywhere. Mr. Woodward is one of them, and Mr. Lyman, the Second Assistant Postmaster-General, is another, a man of sterling character and moral worth. It is a blessing to the Government that such a man is in the office he now occupies, and I only hope that, whatever political change may occur, he will be kept in that position.

Mr. MILLIKEN. Civil service reform will do it.

The WITNESS. That, sir, I am positively opposed to. [Laughter.] Another gentleman of the same character is Mr. Cameron. A more earnest, faithful man I never met, a man who does his duty and knows nothing but his duty, whose character morally and in other respects is beyond attack.

By Mr. VAN ALSTYNE :

Q. Brewster Cameron?—A. Brewster Cameron. The gentlemen whom I have named are excellent men. I will not speak for those higher, but I feel at liberty to speak for these gentlemen with whom I have come in contact in the service of the Government.

Now, I was going to tell you about these papers that Colonel Bliss said I was mistaken about. I told you that I got the name of Kellogg from the papers. Well, I should have told you that I got it from Colonel Bliss, too; I got it from Mr. Woodward; I got it from different sources. But Colonel Bliss takes upon himself to say, recklessly, of course, that I could not have got it from the papers; that the papers did not show Kellogg's name. Now, I have read to you where Mr. Woodward says that he investigated the Price routes, and gave the papers to Colonel Bliss. Again, on page 358, Mr. Woodward was examined and testified as follows:

Q. Whose duty was it to see that the witnesses were summoned to appear?—A. Colonel Bliss attended to all that. He selected the witnesses to appear and had them subpoenaed.

Q. State what you did in the way of furnishing Colonel Bliss with the necessary evidence on which indictments could be found.—A. I prepared a paper giving a history of each route, and what each witness would testify to on that route so far as we knew the facts up to that time. Of course, when the witnesses came here to the trials I examined them still further, and we got some additional evidence.

Q. Then, the responsibility of procuring the necessary evidence upon which indictments could be found, and briefing it, was with you?—A. Yes, sir; with me.

Q. And the responsibility of bringing it to the attention of the grand jury was with Colonel Bliss?—A. Yes, sir; and the responsibility of preparing the indictments was with Mr. Ker, and Mr. Merrick came in to conduct the cases in court.

Now, did not Mr. Woodward furnish me with a brief of that case? I had it before me, and I prepared for the March term an indictment in which the names of Price, Brady, and Kellogg were joined together, charging them with conspiracy to defraud the Government of the United States. I prepared that indictment in anticipation that the grand jury in the March term would make a presentment to the court, and afterward find the indictment. I was getting the indictment ready beforehand, because it was a long one, and I could not wait for the presentment to be made. I wanted to have the indictment ready when they did make the presentment. Colonel Bliss says that the name of Mr. Kellogg was not mentioned before that grand jury. Walsh's testimony was all Kellogg. Walsh did not get the drafts from Price. Walsh knew very little about Price. What Walsh could testify to, and what Walsh did testify to, was that he got the drafts from Kellogg, and that he paid part of the money over to Kellogg and credited part of it to Brady.

By the CHAIRMAN :

Q. You are not speaking of the testimony of Walsh before the March grand jury?—A. Of course I am. That is all he could testify to.

Q. You, of course, were not before that grand jury?—A. Oh, no.

By Mr. MILLIKEN :

Q. Then, if you were not there, how do you know what Walsh testified to before that grand jury?—A. From what he told me, from what was testified to before the committee, and from what I know of the case.

Q. From what who told you?—A. Walsh.

Q. He told you himself what he had testified to?—A. Why, of course he did. I went before the grand jury on the third hearing, and of course I asked Mr. Walsh what he had testified to before, and what he had shown the jury.

Q. Yes; but what you are testifying to now is not what you know of your own personal knowledge; it is what you know from other sources—from Walsh.—A. Of course that is so. What I am talking about is the testimony that was given here before this committee as to the source from which I could have got Kellogg's name. Colonel Bliss came upon the stand and accused me of telling falsehoods. I intend to *convict* him of that offense by the testimony of other witnesses examined here.

By Mr. FVAN :

Q. I understand that Walsh told you this in conversation, and that afterwards when you went before the grand jury with him he told you that he had previously so testified?—A. That is it.

By the CHAIRMAN :

Q. Did you prepare an indictment against those three parties, Price, Brady, and Kellogg, at the March term?—A. I did.

Q. Upon what data did you prepare that indictment?—A. I knew that Walsh would testify to the fact that he had received drafts from Kellogg, and that Kellogg had written to him about the matter—that Walsh had given Kellogg part of the money, and had retained part of it and credited it to Brady.

Q. You assumed that the evidence before the grand jury would be the same as that which you had in your possession?—A. Certainly.

Q. And assuming that, you prepared the indictment accordingly?—A. Certainly.

Q. Now, when did you learn that you were mistaken in preparing the indictment in that way with those three names?—A. I was not mistaken.

Q. You were as to the presentment. When did you learn that they had not presented those three parties?—A. I learned it from Colonel Bliss.

By Mr. VAN ALSTYNE :

Q. How many days before the 4th of March?—A. I cannot tell you that. I learned it from Colonel Bliss.

By the CHAIRMAN :

Q. What did you learn from him on that subject?—A. That the grand jury had failed to indict Kellogg; and instantly I went to work and prepared a new indictment with Kellogg's name omitted. Colonel Bliss in his anxiety to hurt me, and probably to protect himself, says here, recklessly, that I did not do that, and could not have done it, because Walsh did not testify about anything that implicated Kellogg before that

grand jury, and that the papers did not disclose Kellogg's name; but I say most emphatically that the papers did. Kellogg's name is written at the bottom of the application for increase on one of these very routes, and his name is mentioned all through one of Mr. Woodward's reports, which Mr. Woodward says he has given to this committee. I might produce a corroborating witness here, but if I did I do not know what would become of the gentleman who would undertake to corroborate me on this point. There is only one man that I know of who knows anything at all about it, and I would not like to have him called.

By Mr. FYAN:

Q. What is his name?—A. Do you want him turned out?

Q. I am not particular, but I want his name.—A. If I was sure that Colonel Bliss would not visit his vengeance upon him I would bring the man here, and I would convince you of the facts as I have stated them.

Q. This is a question of veracity between you and Colonel Bliss, and that gentleman to whom you refer, would, perhaps, turn the scale, if you would only give us his name.—A. I think I have settled the question of veracity very conclusively by the record. However, I do not know but I had better give the gentleman's name.

Q. What is it?—A. His name is Charles D. Sloan; and if Colonel Bliss would tell you the truth, he would tell you that he went and saw Mr. Sloan, and that Mr. Sloan told him what I have stated here.

By the CHAIRMAN:

Q. Told him what?—A. That I had prepared the indictment as I have stated.

Mr. BLISS. Do you ask me to make a statement upon that point?

The WITNESS. I know that your full vengeance will be visited upon the man. I know that he will be turned out. It is easy to talk about civil service reform, but what does it amount to when a man in power has a spite against another man in office?

Mr. BLISS. Do you ask me to speak about that?

The WITNESS. Yes; I want you to answer me now. I asked you to be present when I testified to-day.

Mr. BLISS. No; you did not. As to Mr. Sloan, I met him and asked him if any indictment was prepared for the March grand jury with Mr. Kellogg's name in it, and afterwards destroyed. Mr. Sloan at first said, "Yes, I think there was." Said I, "Are you sure that it was for the March grand jury?" "No," said he, "I cannot say that; but it was prepared with the anticipation that one of the grand juries would indict; they did not do it, and the indictment was destroyed." That is the conversation I had with Mr. Sloan. Now, if it is desired to call Mr. Sloan, and if any guarantee is wanted that Mr. Sloan can come here, and tell the truth without being hurt, I am ready to enter into bonds to pay his salary if he is removed because of any testimony he may give here.

By Mr. FYAN:

Q. After this March term was there any indictment drafted against those three parties?—A. No, sir; the next grand jury was called together in July, 1882.

Q. Then, if there was any such indictment, it was at the March term?—A. Oh, yes; I prepared an indictment for the three of them, and had it ready to be handed to the grand jury when those parties should be presented at March term.

Q. You never subsequently prepared an indictment against those

three parties?—A. No; not at all. The next or subsequent grand jury was that which was called together in July, 1882, and was in session only two or three days.

Q. When was the next grand jury?—A. The third and last was in 1883. That grand jury presented only Kellogg for receiving the money while a member of the Senate. And in that case, of course, I prepared an indictment against him alone, because the grand jury made the presentment.

Q. You were before that grand jury and can make no mistake about that?—A. I was before that grand jury, and am making no mistake.

Q. What became of the first indictment? Who tore it up?—A. Well, it was lying in the Department of Justice for some time, and before my going away they wanted to use the room I was occupying, and they put me up in the examiner's room. All the papers went up there and were piled together on the table, and after the trial of the case, and after I thought all was over and that there would be no more trouble about it, I tore up all those papers that were piled up on the desk, because I was clearing out the surplus papers. But there can be no question about that indictment. Send for this gentleman, Mr. Sloan. He is employed in the Post-Office Department; send for him, and, if you will only protect him against Colonel Bliss's look of indignation, he will undoubtedly tell you the truth. I know what his fate will be unless he is protected.

By Mr. MILLIKEN:

Q. What place does Mr. Sloan hold?—A. He is a clerk in the Department.

Q. In what Department?—A. In the Third Assistant Postmaster-General's Office. Now, as to a question of veracity between Colonel Bliss and myself I do not think it was worth his while to have raised it. But you see he was determined to crush me in every way he could, so where the testimony did not in any way reflect upon him, he assumed that it did, and tortured it so as to get an opportunity of saying that what I had said was not true. But as to the material points on which I have answered him I have either referred you to the record, to show you that what I have said is true, or have corroborated it by other testimony. I have shown you that when Colonel Bliss said that he did not give this bill-of-fare book to Mr. McSweeney, and that Mr. McSweeney did not use it as I stated, he had failed to look at the record, and was swearing recklessly, and that he was himself stating what was not true when he accused me of testifying untruly. I have shown by the record that that book was produced, and the evidence of that appears in the record of the trial, and is uncontradicted.

The CHAIRMAN. I do not think it is necessary for you to sum up your evidence, or to recapitulate it. You have gone over all those facts, and they are already in the record more fully than you are now stating them.

The WITNESS. Well, I know that, but if there is any contradiction I want it to come now. I want to meet it, and I have staid here to meet it.

By Mr. MILLIKEN:

Q. Don't you think that some of these questions of veracity of which you speak are really questions of memory rather than questions of veracity?—A. That is a very ingenious question, and I will answer it, because it goes upon the record. In some aspects of the case they may

be questions of memory; but when a witness undertakes, under the solemnity of his oath, to say that another witness states a falsehood and manufactures testimony, why then your question does not apply in the same way. It is then a question of veracity.

Q. The reason I asked the question is this: It seems to me that a great many of these points on which you gentlemen differ are not of enough importance to cause questions of veracity to arise between gentlemen. That is the reason I asked that question.—A. Well, I have a right to answer the question. I am very sorry, however, that you did not assume that position two or three days ago. In my previous testimony I had no idea of making an attack upon Colonel Bliss. I had no idea of raising him to the dignity of a scape-goat, or, as he popularly terms it, of “unloading” upon him. There was no occasion whatever for that. I came here and made a plain, simple statement of facts, and upon the strength of that Colonel Bliss comes here and attacks me personally, and it is that personal attack upon me that has drawn from me these statements, and the criticisms which are necessary in order to substantiate my position, and to show that I am not to be held up before the world as a perjurer.

Mr. FYAN. I understood Mr. Bliss to make the declaration publicly to this committee that there was a combination here to “unload” upon him. That is my recollection of what he said.

By Mr. MILLIKEN:

Q. I desire to ask you another question; it is not exactly in the line in which you have been testifying, but I ask it now lest the matter should escape my memory, and I ask it because I have had an intimation from you that it would not be disagreeable to you to have the question asked.—A. You had better write it first and hand it to me.

Q. No; I will ask it now. Do you not believe that the attorneys in the star-route cases acted faithfully and did the best they could, according to their best judgment, for the conviction of the defendants?—A. Mr. Milliken —

Mr. MILLIKEN (interposing). You will recollect that when I asked that question of Mr. Bliss, and he answered it, you intimated that I might ask you the same question, and I do so now because you so intimated.

The WITNESS. Well, Mr. Milliken, I did not understand the question in that way.

Q. You were present when I asked the question of Mr. Bliss, and he answered it in your presence. Did you or did you not then suggest to me that if I should ask you the same question you would answer it in the same way that Mr. Bliss had answered it?—A. I did.

Q. Very well. Now I have asked the question upon your suggestion.

The WITNESS. Very well, but I suppose I am not bound to answer it.

Mr. MILLIKEN. Of course not.

The WITNESS. Because it is a matter of opinion, and I think it is better for me not to express any opinion.

Mr. MILLIKEN. Well, I will ask you another question, and you need not answer that either, if you do not wish. I do not know but it is an improper question, and, if you think it is, you need not reply. I guess I will not ask it, though; it is about a private conversation between you and me, and I will not ask the question.

The WITNESS. I do not object to anything. I am here to be examined.

Mr. MILLIKEN. Well, I guess I will not ask the question.

The WITNESS. I want to repeat again that Colonel Bliss is a shrewd,

sharp, keen lawyer of great ability and of untiring energy, and that he handled the papers and the testimony in the case in a manner that was simply wonderful. I do not pretend that I could have mastered the case and the papers as he mastered them. I think that his services in that respect were invaluable.

Mr. MILLIKEN. Now you have suggested another question by that statement. Do you think his services were worth what he was paid for them by the Government?

The CHAIRMAN. Do you introduce the witness now as an expert?

Mr. MILLIKEN. Yes.

The WITNESS. Well, I am not an expert in the matter of pay or compensation. Colonel Bliss had a right to receive all that was agreed to be paid him. I had no objection to his receiving all that he could get, or all that was due to him. Whether it was proper or improper it is not for me to say.

WASHINGTON, *June 20, 1884.*

GEORGE BLISS resumed the stand and testified as follows:

What I said about the initials of Rerdell appearing in the directory of the year when he was indicted is a matter that I did not know anything of until after the question in regard to Rerdell was raised by the objection taken in court. As to that, you are to have Mr. Sloan here as a witness, who is the gentleman who was immediately concerned with Mr. Ker in the preparation of the indictments, and if you will ask him he will inform you, as he informed me the other day, that no question was raised about looking for the name of Rerdell until after the question had been raised by the objection in court.

Mr. Ker says that I quarreled with Price. Not so. I never saw Price; I never knew him. I should not know him if he should come into this room to-day. I never had any connection with him direct or indirect, with either Price, J. B. Price, or Celsus Price.

The CHAIRMAN. I think Mr. Ker modified his statement on that point.

The WITNESS. May be he did. He has referred here to the evidence of Coll McLellan. It is true that McLellan gave that evidence on the second trial, but not on the first; and it had a bad effect in this way: McLellan having been examined on the first trial, and having made an affidavit before the post-office inspector which did not contain this statement which he supplied on the second trial, when he came on the stand and testified to this new matter, and when Cabell was brought here to prove the same thing, and then when it was brought out that Joe Pennell, who was one of our most important witnesses, had been taking such a personal interest in the case for the Government that he had gone off to Dakota to bring Cabell here, the effect on the jury I thought was bad, though I had no question that McLellan was telling the truth. And when McLellan testified that he had never been examined by the counsel, I was in this position: I could not discredit McLellan, my own witness, by saying to him, "Are you not wrong?" I could not do that and produce the affidavit in which he stated that he had told the whole story, and yet which did not contain the very statement that he had just made upon the witness stand. Of course it would have been out of the question for me to have done that.

Mr. Ker said that I made a remark about Mr. Brewster Cameron here, knowing that he was out of the city. I did not know it. On the contrary, a gentleman told me that Mr. Cameron told him at Chicago

that he was coming back, and until Mr. Ker testified about it to-day I supposed he was in town.

Upon the question of what occurred on the summing up by the Attorney-General on the first trial of the Kellogg case and the inquiry that was put to him by Judge Wylie, the record shows the transaction, and shows that it did not occur as Mr. Ker states it, and I think that if the judge should be asked what did occur he would confirm the record. Mr. Ker does state in his evidence that I left the case and went to New York and was gone several days, and that they finally persuaded me to come back.

By Mr. FYAN:

Q. Are you sure that Mr. Ker says that?—A. Mr. Ker says it.

Q. Can you find where he says it?—A. If you will give me a copy of the testimony I will find it, because I do not desire that there shall be any question about it. On page 556 of your record he says:

After that indictment was found Mr. Bliss left and went to New York.

In the first place you will see that it was not after the indictment was found. The indictment was found considerably later. He should have said after the decision of the Attorney-General. Then, too, he says that I went to New York. I did not go to New York. I staid here, and was out of court one day, and appeared and opened the proceedings the next morning.

Mr. Ker goes on to say:

He said he was not coming back again. He was indignant at the indictment being found. We coaxed him to come back, told him that he was not running the thing; that the Attorney-General controlled it; that the Attorney-General wanted the indictment found, and that we were proceeding under his direction, and finally Colonel Bliss agreed to go on with the case.

Now nothing of all that occurred.

Q. As a matter of fact, did you get angry and leave the case because the Attorney-General had decided to accept Price as a witness?—A. No, sir. I have already testified that I did not. But I thought there had been bad faith shown in procuring a decision of that question from the Attorney-General without consulting me, and I thought Mr. Merrick had been concerned in it, and the moment Mr. Merrick assured me that he had had nothing to do with it, I accepted his statement and returned to the case.

Q. Had you prior to that explanation expressed a determination to go out of the star-route case?—A. Yes; I had told Mr. Merrick that if I was to be so treated by my associate counsel not having confidence in me, I could not remain in the case with self-respect, and I would not remain. I was pretty mad. I thought it was a case of bad faith. I was satisfied afterwards that I had done Mr. Merrick injustice, and that there had been no bad faith so far as he was concerned. It was simply a misunderstanding, such as will often arise, and when it was explained the matter was all over.

I never said that I ran the Department of Justice, nor did I make an apology to Mr. Brewster Cameron. I will send the committee that correspondence. I am a little different from the Department of Justice in the fact that I have got copies of all the papers on both sides. The Attorney-General has not. He is trying to get them, and he has got copies of some of them through this committee.

Now, as to the Kellogg business, Mr. Ker has read to you at some length from Mr. Woodward's statement. I never saw and I do not be-

lieve there existed at that time any report or statement of Mr. Woodward in March, 1882, which connected Mr. Kellogg as a guilty man with any of the star-route cases in any manner. I say that I never saw any such statement, and I do not think that any such existed at that time; nor that Mr. Woodward will say it did. The question turns entirely upon whether in March, 1882, I knew of Kellogg's guilty connection with the star-route business. I say that I did not, upon my honor as a man and upon my honor as a professional man, and under oath. Mr. Walsh has testified that at that time he had never talked to any of the Government counsel in the case. The pretense that because a man had signed a petition for increase of service or expedition upon a route, you could therefore infer that he had a guilty connection with that route, is ridiculous. If that is the ground that is to be taken you can have pretty much all the members of the Senate indicted. Mr. Kellogg's name may have appeared on some paper in that way, but that you could get his name from that source for the purpose of preparing an indictment against him is, of course, a perfect absurdity. There is no criminality in applying for expedition. You have Mr. Walsh's statement that at the time in question he had not talked with any of the Government counsel, and would not talk with them; that he had not produced any of his papers; that he did not produce his papers before the first grand jury, or that he read only one of them to that grand jury, in which statement he was mistaken. We had not then got Price as a witness against Kellogg; we had not Walsh; we had not anybody. We had simply Kellogg's name on a petition for increase or expedition. But when we came to the July grand jury we were very differently situated.

By Mr. FYAN:

Q. After you talked with Mr. Sloan, were you not satisfied that Mr. Ker *had* prepared the indictment which you had previously sworn that he had not prepared?—A. No, sir; not for the March grand jury.

Q. Was there any other time at which he could have prepared it?—A. In July, of course; he prepared it then. I have no question about that.

Q. Do you know that he did prepare it then?—A. I do know it, in this sense, that it was arranged that he should prepare the indictments.

Q. Did you ever see the indictment that was prepared for the July term?—A. All I can say about that is that after the question came up of reconvening the grand jury I had a conversation with Mr. Ker about the preparation of those indictments in anticipation of the action of the jury. In Mr. Woodward's letter of July 6 he writes to Walsh to come here, telling him that it has been arranged by the counsel that the grand jury is to be reconvened on the following Monday. In point of fact, however, it did not meet until Wednesday. The statute of limitations would run on the 19th, and it was arranged, necessarily, that the indictments expected to be obtained should be prepared beforehand. It was expected that there would be more than one indictment obtained against Kellogg. I had some conversation with Mr. Ker about the preparation of the indictments for that grand jury. He told me he was preparing them, and, being in the office, I saw papers lying there that looked like indictments.

Q. Upon what did you base your idea that he prepared the indictments at that time?—A. Upon what I saw and what he told me.

Q. Did you see any indictments prepared?—A. I saw what I believed to be the indictments.

Q. At the July term?—A. Yes, sir.

Q. Did he tell you that he was preparing the indictments?—A. Yes, sir; we all talked it over.

Q. Where were you when he told you that?—A. Where we talked that over I cannot say. I should think it must have been in the Department of Justice, or it may have been when we were walking along the street. I will not undertake to locate it.

Q. Was there anybody else present but you and him?—A. That I would not undertake to say.

Q. But you have a distinct recollection of his telling you that?—A. I have a distinct recollection of our talking of the preparing of the indictments for the July term.

By the CHAIRMAN:

Q. Was that an indictment containing these three names?—A. I will not undertake to say about that, but I would say that I never heard of any such indictment being prepared for the March term. I don't see how it was possible for any indictment to be prepared for the March term. I never knew of Mr. Kellogg as being connected with the case at the March term. There were no papers which connected him with it, except the mere petition for expedition which he had signed, and which was certainly no ground for an indictment. Walsh had not given his testimony at that time, as he swears. I do not know of any statement of Mr. Woodward's at that time that connected Kellogg with the case in any manner. All I have to say on that point is that if Mr. Ker did prepare such an indictment, I think he is mistaken as to the term at which it was prepared, but I have no doubt that it is a mistake made in good faith.

Q. How can Mr. Ker be testifying in good faith when he says that at the same term he subsequently drew an indictment leaving out Kellogg? Now, at the July term there were no parties indicted.—A. No; but we expected that there would be.

Q. You say that he made that mistake here in good faith?—A. I do. I believe he did.

Q. Did you not understand him to say that when the jury failed to present these three men and he had to leave Kellogg out, he tore up that indictment and prepared another against Brady and Price?—A. I believe he did say that.

Q. Well, there was no such indictment prepared at the July term, was there?—A. That does not prevent its being a mistake made in good faith. I think Mr. Ker is mistaken upon this subject; I do not think he prepared any indictment with Mr. Kellogg's name in it for the March term; I do not see how he could have so prepared an indictment at that time; I believe Mr. Ker conscientiously thinks that he did prepare the indictment, but I have stated the reasons why I think he could not have so prepared it; I cannot see any source from which he could have got information at that time on which to indict Kellogg. I had no such information. Walsh says he had given no such information; Price was not available; there was no paper in possession of the Government in which Kellogg's name appeared except this petition for expedition of the service. Therefore, I say I think he could not have prepared the indictment for that term as he says he did. But, as pertinent to myself, the important thing is this: That I never knew of the preparation of any such indictment for the March term; never knew that Kellogg was to be indicted at that term. In this very brief that I put before the grand jury and which was indorsed by them, I said, "Indictment de-

sired against Brady and Price;" and I did not suggest Kellogg's indictment; I had no idea of it.

Q. Was not Walsh before this March grand jury?—A. Yes.

Q. Did not you examine your witnesses before you took them to the grand jury?—A. Walsh said he would not talk to me, and he would not.

Q. Had he talked in regard to the matter with others?—A. No, sir.

Q. Were you present when he testified before the grand jury?—A. Yes, sir.

Q. Didn't he testify that the orders or drafts were given him by Kellogg?—A. No, sir; at that very time he testified that he had got those drafts from Brady; just as he did in his statement made on the 28th of September, 1881, which I produced yesterday; he did not say that he had got the drafts from Kellogg; he said he had got them from Brady. Then he went on a little further and said that he got them from Brady, but he said that "Mr. Kellogg" was the messenger or party who brought them. I confess I did not understand that by "Mr. Kellogg" he meant Senator Kellogg, but even if I had understood that I should not have thought anything of it at all, because I did not dream at that time of any improper connection of Kellogg with the matter.

Q. But Walsh did swear that Kellogg had brought the drafts with him?—A. His statement at first was that he got them from Brady. Then the question was, "How did you get them?" and he answered, "Why, Mr. Kellogg brought them to me." That is the way it was.

Q. Who was the foreman of that grand jury?—A. Mr. Mitchell; and Mr. Mitchell testifies substantially that there was nothing done about the Kellogg case.

By the CHAIRMAN:

Q. In Mr. Gibson's examination, page 76 of our record, I find the following question and answers about which I wish to ask you:

Q. Did you call the attention of Mr. George Bliss to that case [Route 40101]?—A: Yes, sir.

Q. State what your interview with him was in reference to bringing that case to the attention of the grand jury.—A. Well, some time while I was still at the Post-Office Department building, Mr. Bliss in looking over one of the papers connected with this case of 40101—I had prepared them all together, because in trying one case you necessarily would have had to try the others partially; I had left purposely the statement as to some matters relating to the route from San Antonio to Corpus Christi (route No. 31148) blank—Mr. Bliss in reading it over of course noticed that, as any person would who was familiar with all the circumstances. He asked me who that referred to. I wrote on a slip of paper and handed it to him, "William Pitt Kellogg." That was the first information that he had with regard to it.

The WITNESS. I am perfectly well aware of that testimony, and something of that sort may have occurred in October, 1881, which was just after I came into the case, and at a time when, as I have said here, there was a great deal being pumped into me. There was nothing in any statement that Mr. Gibson ever submitted to me that showed any criminality on the part of William Pitt Kellogg in connection with Price, or anything of that kind. I have an indistinct recollection that at some time and somewhere Mr. Gibson did show or tell me something—possibly he wrote it on a piece of paper, though I should not think he would be likely to do a thing of that kind—something about Mr. Kellogg's name, but there was nothing that occurred to my mind in relation to any guilty connection of Mr. Kellogg with this business, or anything of that kind.

By Mr. FVAN:

Q. Your recollection was not refreshed in the grand jury room when

Mr. Walsh swore that Kellogg took him those drafts?—A. He did not say Senator Kellogg; he said "Mr." Kellogg.

Q. When you heard that, your mind did not revert to what Mr. Gibson had told you or shown you?—A. No, sir; not at all. You will remember that I came down here about the middle of September, the greenest of green men—greener than Mr. Ker when he first came here—about all this post-office business, about "increase" and "expedition," and subcontracts, and everything of that kind, and, as I looked over Walsh's statement here since I have been here on this occasion and saw the comments that I made on the margin at that time, they carried me back and reminded me of how ignorant I then was of these matters; because they showed that I had asked explanations of things which now seem to me the A B C of the business. Now, I have an indistinct recollection that in that condition of things Mr. Gibson did say something to me at some time in regard to Mr. Kellogg, but I am very confident that he never said anything that indicated to my mind anything about Senator Kellogg's criminal connection with Price on this route, or anything of that sort; and I cannot see how, in the preparation of any statement about route 40101, there should have come in any question of Kellogg's criminality in relation to the Corpus Christi route. I do not remember Gibson having said anything of that kind to me, and I don't think he did; but if he did, it made no lodgment in my mind, and when, in the following March, when I was in the midst of the Dorsey case, the name of "Mr. Kellogg" was mentioned in the grand jury room, it did not carry my mind back to anything that I had ever heard before on that subject. Now, I may have been wrong, I may have been dull, may have been negligent about that, but all I have to say is that I acted in good faith.

The CHAIRMAN. Mr. Gibson goes on to say that he narrated in a report that he made to you all the facts of the Kellogg matter.

The WITNESS. Well, I do not think it is so, and I do not think any report of that character ever existed. I do not recollect it, and I don't believe it ever existed.

You remember that Mr. Ker, with reference to the question whether he drew that indictment for the March term, said that he knew Walsh would so testify. How did he know it? Walsh had not communicated with anybody at that time. Walsh himself swore before the committee that he had not done so.

I think I have now touched upon all the points that I desire to correct. There is no use in wearying the committee or anybody else by talking back and forth upon these controverted points, and therefore I content myself with making these corrections.

Mr. FYAN (to Mr. Ker). Did you prepare an indictment against those three parties—Brady, Price, and Kellogg—for the July term of the grand jury?

Mr. KER. No, sir; I did not.

Mr. FYAN. Did you ever tell Colonel Bliss about preparing an indictment against those parties for the July term?

Mr. KER. I may have told him about preparing an indictment, but I never told him about preparing one against those parties, and I never did prepare it.

Mr. FYAN. Was there any expectation of finding an indictment against those three men together at the July term?

Mr. KER. Not at all.

Mr. FYAN. You did not intend to prepare any such indictment at that time

Mr. KER. No, sir.

Mr. FYAN. Then you did *not* tell him about preparing any such indictment at that time?

Mr. KER. Not at all; but I may have talked to him about the indictment against Kellogg for receiving the money.

Mr. FYAN. I am talking about the indictment against Brady, Kellogg, and Price together.

Mr. KER. Oh, no, no; nothing of the kind. There was no necessity for such an indictment then.

The CHAIRMAN (to Mr. Bliss). Since you testified before the committee in March I have received a letter, dated May 17, from a gentleman who lives at Cheyenne, in Wyoming, which I intended to call to your attention when you testified the other day, but it escaped my mind. I now show you the letter.

The letter was shown to Mr. Bliss, and was then put in evidence, as follows:

CHEYENNE, WYO., May 17.

DEAR SIR: Herewith I beg to hand you a verified copy of the Dorsey letters. They are not as full as I thought them; that is, the epitome of the originals that was published, a copy of which I inclose, are weaker than the originals. It is, however, sufficiently strong to show you how potent this proof would have been in the case. Had Mr. Bliss been in earnest in his prosecution, how can you account for his refusal to call such testimony as this? You will doubtless remember that I called Bliss' attention to these letters, told him of the suit that was brought, the settlement that was made and of the fact that the originals had been destroyed by Dorsey, and the names and residences of each person by whom he could prove each of these facts by. No effort was made to get them all, and by reason of his not having all he failed in getting in evidence the copies. He omitted each witness by whom he could have laid the foundation for secondary testimony.

If you wish me to come on I will.

Respectfully, yours,

C. W. WRIGHT.

Hon. WM. SPRINGER,
Washington, D. C.

Mr. BLISS. In my previous examination I referred to the fact that there were four witnesses omitted on the second trial because we had tried to get the matter to which they were going to testify in on the first trial, and it had been excluded by the court, and we then abandoned it. That arose in this way: Dorsey, very early in the case, wrote letters to a man named Wilcox, in Oregon, directing him to get up petitions for expedition and increase, to help the development of that branch of the conspiracy. That is what it amounted to, practically. This young man did not personally attend to the business, but his father did. It went along for some time. Before I came into the cases, and by the time the investigation in the star-route cases commenced in the spring, Dorsey had failed to pay Wilcox for his services. Dorsey usually cheated his subordinates, and that was one of the things that went against him on the trial of the case. The other contractors usually treated their subordinates well, and divided with them their illegitimate profits, but Dorsey wanted to keep all himself. The consequence in this instance was that Wilcox went down to Denver, or sent these letters to Denver to a Mr. Brown, a leading lawyer there, and a partner of Governor Teller, to get service on Dorsey and sue him down there. He did sue Dorsey, and they made a settlement, under which the original letters were delivered up. When the suit was brought at Denver one of these omnipresent newspaper reporters got after some of the parties and published the letters in a Denver paper.

The CHAIRMAN. Those are the letters, copies of which have been furnished to us here?

Mr. BLISS. I suppose so. Mr. Brown, the lawyer, had also kept copies of the papers. Before I came into the cases Mr. James had sought to get those original papers, but found that they had been delivered up on the settlement to somebody who represented Dorsey as his lawyer, that he had delivered them to a man named Tankersley, and that Tankersley had taken them to New York to Dorsey. We brought both the Wilcoxes all the way from Oregon. We summoned Mr. Brown, we summoned the reporter, we summoned Mr. Tankersley, and we called them all as witnesses, I think, except Tankersley.

The CHAIRMAN. Did you call Mr. Wright?

Mr. BLISS. No, we did not; he was of no importance to us.

The CHAIRMAN. He had given you the information?

Mr. BLISS. No, he had not.

The CHAIRMAN. He states in his letter that he had.

Mr. BLISS. If he gave any information it was no addition to what we already had. Mr. James had got the information. The matter had been published in a Denver paper. We kept those gentlemen from Denver here six or eight weeks, and then we went into court and undertook to prove our case. We had Frank R. Wilcox under examination for a long time, and we asked him how he had got this information and went to work to show the whole process and course of their operations, but Judge Wylie made a ruling to which I will call your attention in a moment.

The lawyer was Putnam; there was a lawyer named Brown, and the reporter was a Mr. Brown. He was put upon the stand, and he told us about the suit. We brought one more witness, the son of Mr. Brown, of the firm of Brown & Putnam. We brought the son because he had made the copies of the letters before they were given out, and Brown & Putnam verified the copies, so we brought them in addition to the reporter. There were two sets of copies, Brown's and the reporter's. We put them all on the stand. Then we tried to get that evidence in, and we had an elaborate argument, considerable running discussion, and the court finally summed it all up by ruling out that evidence, in substance, saying, "There is no law to prevent a man getting up petitions, or writing to get petitions gotten up, provided there is nothing illegitimate in view." We had to admit that we could not show anything illegitimate there, so that evidence was all excluded. We had the Western Union telegraph blanks, and we bestowed endless time and trouble on that matter, but the evidence was excluded, and I thought wrongly excluded. I may now say, however, that there was another reason. In the course of the conference there the elder Mr. Wilcox handed to me, in connection with the letters which his son knew of, and which had been published, some other letters from Dorsey, which, if they had gone in, would have done away very largely with the effect of our evidence, because they were letters in which Dorsey said, in substance, "I do not want you to do anything improper," and "I am doing this for my friends; I have no direct interest," and so on. While I did not think that was true, yet those letters would, of course, have militated against the effect of our evidence. But the letters we knew of and had tried to get in, and we were so strenuous about it that we insisted on keeping Mr. Putnam here. It was a very great hardship to him to keep him here, and I paid him something in addition to his witness fees, as I recollect, and had to pay it entirely out of my own pocket. There were a good many of those little expenditures that I never got any allowance for.

The CHAIRMAN. In another letter of this gentleman to me he says:

In February, 1882, I called upon the Attorney-General in reference to the star-route cases, particularly the case against Dorsey. I was possessed of certain facts that seemed to me conclusive of Dorsey's guilt. The Attorney-General referred me to Mr. Bliss. Mr. Bliss impressed me with the idea that these prosecutions were organized and instituted for but one object, and that was to give him employment. He treated me with considerable disdain, and intimated that the information was immaterial.

Have you any comment to make on that?

Mr. BLISS. I remember Mr. Wright now. I did not remember him before. Let me say, first, that we had heard of Mr. Wright in connection with this matter before that time. I think he had represented Dorsey, or been in some such relation to his side of the case. At any rate, he had had something to do with it, and we had sent out to Wyoming, where he had a ranch, to find him, and had missed him. Although he was a lawyer in Denver, I think he had a ranch up in Wyoming. At a later period he turned up here and was referred to me by the Attorney-General. I had a talk with him. I found that he could give us nothing except what we already had, and it seemed to me pretty clear that Mr. Wright was seeking a retainer for the Government and desired to be employed in the cases, and, as he gave us nothing we had not before, I did not think we needed him, but I treated him, I think, as politely as I could. I took his address and left him. He did not give us any information that we had not already.

The CHAIRMAN. He says he gave you the names and residences of witnesses to prove these facts.

Mr. BLISS. I know; but we had no trouble in proving those facts. We had the Wilcoxes here at that time.

The CHAIRMAN. But could you not prove the existence of the letters and their loss, and thus put the copies in evidence?

Mr. BLISS. Judge Wylie ruled that that evidence was inadmissible, as you will see if you turn to the record.

The CHAIRMAN. I understand you to say that you did endeavor to put the letters in evidence, and that Judge Wylie ruled them out?

Mr. BLISS. Oh, yes.

The CHAIRMAN. Did you offer to show that there were originals, that the originals had been lost, and that those letters which you had were copies?

Mr. BLISS. Yes, sir. We had witnesses to prove all that.

The CHAIRMAN. On what ground did the judge rule them out?

Mr. BLISS. I do not recall at this moment the ground on which Judge Wylie ruled them out. You will find it, I think, about page 1640 of the record of that trial. We examined two witnesses that we had brought here to prove the receipt of the original letters and dispatches in Oregon. Then we brought the Denver lawyers, Brown & Putnam, here. Something comes to me now in relation to the break there. I remember it now. We brought the Oregon people here who had received the letters, and we brought Brown & Putnam, to whom they were forwarded from Oregon. We had the declaration in the Denver case, or, as we would call it in New York, the complaint, and we also proved the settlement with Dorsey, or somebody representing Dorsey, and the delivering up of the original letters to him. We proved also the taking of the copies before the originals were delivered.

Mr. VAN ALSTYNE. You did not prove the loss of the letters, and that was why they were ruled out?

Mr. BLISS. No, you are mistaken. You are a little "previous," judge.

We proved the taking of copies by Brown & Putnam. We had here the reporter of the Denver paper, but we did not put him upon the stand. I think that after keeping him a month or six weeks, his wife took sick, or was about to be confined, and we let him go. We had here also Mr. Tankersley, the man who took the letters to New York and gave them to Dorsey. During all the time he was here he was associating with the other side, and was in their interest completely, so much so that I received a letter from the Attorney-General in which he warned me against Tankersley, knowing nothing about him except that he was here as one of our witnesses. We had been informed from Oregon that the letters had been sent direct by the Wilcoxes to Brown & Putnam; Wilcox had stated that. His statement was, "I sent them to Brown & Putnam," and he stated that in good faith; but after we got to work on that point it turned out that instead of sending them direct to Brown & Putnam, he had given them to his lawyers at Portland, Woodward & Woodward, who had sent them to Brown & Putnam; therefore there was a little break there. The chain was broken at that point, as to showing that the letters that Woodward & Woodward had sent to Brown & Putnam were the same letters that the Wilcoxes had received from Dorsey, though they testified that the contents agreed. There was that break there, and we tried to get over it by producing correspondence between Woodward & Woodward and Brown & Putnam, a telegraphic dispatch and so on, but, as I recollect it, *there* was the point where we failed to connect, as the judge held. The judge also held, though, that the letters did not amount to much anyhow, because Dorsey had a right to ask for expedition, and to ask these parties to get up petitions for expedition, always provided there was not involved any misstatement or misconduct in getting up the petitions. I think the judge required us to prove that there was something wrong done there, and Wilcox testified that there was not.

Mr. VAN ALSTYNE. In the first place, you were not sure that the copies you had were true copies of the letters?

Mr. BLISS. Yes, we were.

Mr. VAN ALSTYNE. No; because they were copies that had been made from those that were in the hands of these other parties.

Mr. BLISS (interposing). That break Mr. Wright could not have supplied in any manner. Mr. Wright knew nothing about the letters until they got to Denver. Everything that he furnished or could furnish we had already in our possession, and in the best form for getting it in. Mr. Wright, as I have said, impressed me with the idea that he wanted to make some money out of it. Mr. Wright's point where he thought he could be valuable to us was that he was the lawyer who had represented Dorsey. Therefore I considered, in the first place, that he was here as a lawyer anxious to betray his client, which did not make a good impression on me; and, in the second place, all that he could testify to that we had not before was the fact that he had sent the letters to Tankersley, directed to him at Dorsey's room in New York. He said that Tankersley would swear that he had read them in Dorsey's presence. Well, we had Tankersley here as a witness, but, as I have said, he was a witness who trained with the other side; so much so that the Attorney-General learned of it and wrote me a letter warning me about it.

Mr. FYAN. Was Tankersley examined?

Mr. BLISS. No, sir; because when they ruled us out on that question of the connection between Portland and Denver we did not go any further.

Mr. FYAN. If Tankersley had sworn that he read the letters to Dor-

sey and that Dorsey had admitted that they were his letters, that would have remedied the defect in the proof, would it not?

Mr. BLISS. I do not recall all the points now. All I can say is, that we tried in good faith to get the letters in, and I think all the counsel took part in that tussle.

The following statement received by the chairman from Mr. Wright, being a copy of a publication in a Denver paper setting forth the letters referred to toward the end of the foregoing examination of Mr. Bliss, was put in evidence:

RICHES IN ROUTES.—DENVER, AS USUAL, FIGURES IN THE TOPICS OF THE TIMES. AND IT IS LEARNED THAT SUIT FOR STAR-ROUTE SERVICES HAS BEEN FILED HERE. EX-SENATOR DORSEY, THE DEFENDANT, IN INTERESTING PROCEEDINGS. EXTRACTS FROM LETTERS ALLEGED TO HAVE BEEN WRITTEN BY HIM. GOOD SUNDAY READING FOR "THE BOYS."

The intricacies and alleged irregularities of Postmaster-General Brady's "star-route mail service" are to-day looked upon with more interest by a suspicious public than has been given to any like matter since the days of the Credit Mobilier and whisky ring scandals. Mr. Brady's star routes are far-reaching. They are to be found running over the sandy plains, through deep cuts, and into gaping tunnels, and along the precipitous edges of high mountains. The great West and Southwest are especially well cared for by this, the star-route system. Anything in connection with this great scheme, which is now most seriously suspected of being a consummate fraud, is of more than passing present interest, pending the investigation that is being made into the inner workings of the star route.

A Tribune reporter yesterday discovered that proceedings had been begun in the district court of Aprapahoe County against ex-Senator S. W. Dorsey, of Arkansas, for moneys promised the plaintiff for services rendered in getting up petitions, creating an interest among the people, &c., in order to increase the mail facilities of certain portions of Oregon.

That this suit should be brought in Colorado will naturally excite the surprise of the reader. The circumstances that caused it were peculiar. It came about in this way: Some months ago a well-known legal firm in Denver, which also operates an extensive collection agency, received from their attorney in Portland, Oregon, a claim for collection against Senator Dorsey. The man who presented this claim is a well known politician of Portland. As the Tribune is under a promise not to publish the name of this person, at this time, the reader will know him throughout this article as "Doc", a cognomen given him by his intimate friends. "Doc" had in his possession a number of letters, written by Senator Dorsey, promising him so much per day for his services, and giving him minute directions as to how to proceed to get up his petitions, make contracts, &c. These letters, together with the claim now placed in the hands of the Denver law firm, and last winter, when Senator Dorsey came to this city, to look after his mining interests, he was visited at the Windsor Hotel by an agent of "Doc's" lawyers, and the bundle of letters alleged to have been written by him, were shown him in support of the claim, which the agent then presented for collection. Senator Dorsey pronounced the claim a fraud, and emphatically denounced "Doc" as a blackmailer. Proceedings were immediately begun in the district court. Senator Dorsey instructed his counsel to enter a demurrer on the grounds that these contracts made by "Doc" (for making which he claimed the promised pay) were illegal. Since that time matters have remained in *statu quo*.

It was with difficulty that the Tribune reporter succeeded in persuading "Doc's" attorney to lay bare to his reportorial eye the letters alleged to have been written by Senator Dorsey, which told "Doc" how to "work the thing" to the best advantage.

However, honest perseverance won, and the anxiously sought letters were brought out from their resting place in the proverbial "dusty pigeon-hole."

Letter No. 1 is written upon four sheets of the Senate chamber letter heads. It is written in a free, round hand, and from the blurred appearance of some of the words, where the ink is heaviest, it is evident that the letter has been through a letter-copying press. Senator Dorsey's initial letter to "Doc" is dated Washington, April 12, 1879.

The Senator gets down to business at once, by telling "Doc" that he wants him to go to Eugene City, and "get up all the petitions possible for an increase of mail service, from Eugene City to Bridge Creek, to a daily line instead of a weekly, and also to have the time made faster than it is." The letter states that forms of petitions are inclosed, and then breaks out suddenly, in this style:

"I want ten or a dozen on this route, and also to get people to write to the Postmaster-General and their two Senators."

The letter informs "Doc" that there should be at least fifty letters written to the Department, while a petition should be gotten up and signed by the governor, the United States officers, and the county officers. The letter takes it for granted that "Doc" "understands what is wanted," and then it directs that he shall go and see H. H. Fink, who is subcontractor at Looking Glass. "We want," says the Senator, "prominent Democrats to write to Grover and Slater, urging them to see that this increase is made."

The directions are then plainly marked out for "Doc" to follow:

"1. Get ten or twelve different petitions on each route.

"2. Have large number of letters written to the Postmaster-General and United States Senators.

"3. Be sure all ask for daily and fast line.

"4. Get State officers to write.

"5. Get chamber of commerce of Portland to write.

"6. Send all you can, and send immediately; time is important.

"7. Write me if you can go at once; if you can't, get some good man who knows what to do to go. But I desire you to, and it is probable that I may give you permanent employment at this business. I will pay your expenses while you are gone and \$5 per day. If you haven't means I will telegraph you sufficient."

After telling "Doc" that he is "relied upon for prompt and efficient work," the writer of the letter signs himself "Yours, very truly, S. W. Dorsey."

Letter No. 2 is dated April 16, four days after the first one was written. The letter begins by stating that contracts are inclosed to be made on the route from Bridge Creek to Eugene City, at that time under contract to P. J. Wycoff, of that place, for one trip a week, and says that if the schedule be changed a new contract will have to be made. "Doc" is cautioned to be especially careful about these contracts, and the sage reflection that "mail contracting is peculiar and extraordinary business" is thrown in *en passant*. Says the letter-writer: "They will bluff, blow, talk, and put on airs about the thing costing four times what they will finally take to do it." The letter continues by stating that the "Very best we can do—and there must be a guaranteed bond for fulfilment of contract—is \$7,500 per annum for three trips a week; time, 100 hours, which would be slow walking time." Under no circumstances is "Doc" to pay over \$8,000 per annum.

The writer of the letter gives "Doc" a point by saying:

"Now make your contracts thus: Three trips a week, Department time, \$7,500 per annum; six trips per week, \$14,000; seven trips, \$16,500 per annum, the contract to run until July 1, 1882, and not to be filed here in Washington." These words in *Italics* are heavily underscored in the letter, and that the writer means what he says cannot be doubted. Senator Dorsey goes on to say in this letter of his that, "I guarantee all of the contracts, and if they want to know about my financial standing, I can give any reference they want in their own State. The money will be paid every quarter, and, after January next, every month, if they want it. In regard to Looking Glass and Cogville contract, we must have a new one with him. We are now paying him a good deal more than we get. Contract with him as follows, or if not with him, with A. C. Fink, who lives at Rosebury, and who now gets \$1,000 per year; with some one else in case it is increased to three trips: for three trips, \$2,500; you may go to \$3,000; for six trips, \$5,500; for seven trips, \$6,200; no contract to be binding upon us but upon them until approved by M. C. Rerdell, agent, here.

"This Mr. Fink has filed his contract. I don't want it filed. I will pay him monthly if he wants, but I don't want contracts on file here. Tell them so. I shall need you if you can do this kind of work. I want papers, letters, petitions, and so on, by the car load, sent in on these two routes. Send to me, to Slater, and to Hon. T. J. Brady, Second Assistant Postmaster-General; no letter or petition to be written in the same hand." This letter was signed like the first.

Epistle No. 3 was written to "Doc" while he was in Walla Walla, Washington Territory. He is told that he will find inclosed in the letter contracts for Wallula and Pleasant Grove lines. He is also informed of the facts that "Keach, of Yakuria, has been ousted for drunkenness and general bad conduct." Says the letter, "Let to some good man as you will see. We propose to pay for one trip what it has been carried for all the time, to wit:

One trip.....	\$1,400
Two trips.....	2,000
Three trips.....	3,700
Six trips.....	7,000
Seven trips.....	7,500

"I hope to have work for you in the future, if you do as well here as you did in Eugene City." "S. W. Dorsey" is the signature to this letter, which completes the list of correspondence by mail.

There was some telegraphic communication between the Senator and "Doc" after that time.

The first dispatch is dated Washington, May 11, 1889. It tells "Doc" to "proceed immediately to Walla Walla, where instructions await you. Get papers for daily line and draw on me for \$100."

The next dispatch is dated the 24th of the same month. It merely tells "Doc." that he can return to Portland.

Dispatch No. 3 and the last of the correspondence is signed by M. C. Riddell, the agent spoken of in letter No. 2. "Doc." is told to remain at Wallula, where he is then stationed, "Until Dorsey returns. Will arrange money for you."

These letters will be produced in evidence by the plaintiff to support his claim that he was ordered to do the work, and promised so much money for doing it. The developments will doubtless be interesting.

STATE OF COLORADO,
County of Arapahoe, ss :

T. B. MCKAIG, being duly sworn, says that the foregoing, consisting of eight pages and a fraction of a page, of writing, is a full, true, and correct copy of an article entitled, "Riches in Routes," published and printed in the Denver Tribune of Sunday, May 8, 1881; that the foregoing was copied by him from the files of said paper in the office of the Tribune Publishing Company, and the copy as here written has been compared with the article from which it is copied.

T. B. MCKAIG.

Subscribed and sworn to before me this 15th day of May, A. D. 1884.

ALEX. B. MCKINLEY,
Notary Public.

TELEGRAMS.

WASHINGTON, April 26, 1879.

F. R. WILCOX :

All my other letters written to Eugene City ; have telegraphed money ; inquire at telegraph office ; go immediately.

S. W. DORSEY.

WASHINGTON, April 23, 1879.

F. R. WILCOX, Eugene City :

Make the contract for the Bridge Creek route for speed of $4\frac{1}{2}$ miles an hour ; three trips a week ; no sub-contracts to be filed, but payment to be guaranteed by me personally. Make the same contract on Looking Glass route ; telegraph result.

S. W. DORSEY.

WASHINGTON, April 23, 1879.

F. R. WILCOX :

Make no compromise with sub-contracting parties ; must be absolutely new contract, with amount specially stated. Telegraph fully upon closing contracts.

S. W. DORSEY.

WASHINGTON, April 28, 1879.

To F. R. WILCOX :

A new contract becomes necessary, because the old firm is dissolved and the business passes into new hands ; must have new contract or no pay. Contract on the Bridge Creek route for three, six, and seven times a week on a schedule of four miles an hour, also same on Looking Glass route. Telegraph me fully before allowing any contract. Deal with responsible men.

S. W. DORSEY.

WASHINGTON, May 2, 1879.

To F. R. WILCOX :

I have no interest in the star route, except the Bridge Creek, and Looking Glass contract, on the Bridge Creek one, three, six, and seven times a week, on a schedule of fifty hours, on prices named in my letter of the 16th, the Department demands 4 miles an hour speed or more. Don't go above the following : Three times, \$8,000 ; six times, \$15,000 ; seven times, \$16,500. Telegraph fully before you close contract.

S. W. DORSEY.

WASHINGTON, May 3.

To F. R. WILCOX :

I presume that you understood that you must make the contracts before you try to get up the paper for increase.

S. W. DORSEY.

WASHINGTON, June 10, 1879.

To F. R. WILCOX:

Have you done anything with the Wallula and Pleasant Grove route?

WALLULA, WASH., June 10, 1879.

To Hon. S. W. DORSEY,
1121 I street, Washington, D. C.:

Have been over the route from Wallula to Pleasant Grove. Your figures are impossible to the West. Solid bid, \$2,500 to two trips; \$6,000 for three trips; \$11,000 for six trips; \$12,500 for seven trips. What shall I do?

F. R. WILCOX.

WASHINGTON, June 11, 1879.

F. R. WILCOX:

You may give \$1,800, one trip, \$5,000, three trips, \$8,400 for six trips, \$9,000 for seven trips.

S. W. DORSEY.

Wilcox replies same day:

Your figures are impossible. Mine of yesterday lowest I can get. The contract was closed at \$11,000 for six trips.

STATE OF COLORADO,
County of Arapahoe, ss:

T. B. McKaig, being duly sworn, says that the foregoing writing, being three pages and a fraction of a page, beginning at line 23 of the ruled paper, is a full, true, and correct copy of the telegrams included in an article published and printed in the Denver Tribune of Tuesday, May 10, 1881, entitled "Oregon's Echo;" that the foregoing copies were made from and compared by him with the printed article aforesaid on the files of the said newspaper in the office of the Tribune Publishing Company.

T. B. MCKAIG.

Subscribed and sworn to before me this 15th day of May, A. D. 1884.

[SEAL.]

ALEX. B. MCKINLEY,
Notary Public.

WASHINGTON, June 21, 1884.

HENRY A. WILLARD sworn and examined.

By the CHAIRMAN:

Question. State your age, residence, and occupation.—Answer. I am 62 years old. I am engaged in general business.

Q. Were you a member of the grand jury of which Mr. Eli S. Hutchinson was foreman?—A. I was.

Q. Were you present in the grand jury when the case of the United States *versus* William Pitt Kellogg was being considered—in July, 1882, I think it was?—A. Yes, sir.

Q. Mr. Hutchinson was before this committee and testified as follows. I will call your attention to his testimony in order that you may see the point. On page 427, he says, speaking for the jury:

We were promised on Friday that Mr. Price would be there Saturday almost to a certainty, but he did not come. I suppose, however, that the Government attorneys were not to blame for that.

By Mr. FYAN:

Q. Who made that promise?—A. Mr. Bliss.

By Mr. STEWART:

Q. Do you know why Price did not come?—A. I do not.

Q. Was any reason given?—A. Simply that he did not come. We understood that he was to come, but, as a matter of fact, he did not come.

Q. Do you know where Mr. Price was at that time?—A. I do not.

Q. Was he under arrest?—A. No. My opinion is that he was in Canada at that time. I think Mr. Bliss said that he had, until recently, been in Canada, but that he (Bliss) had learned, through a respectable source, that he would be there the next day.

Q. But he was not there?—A. He was not there.

Again, on page 429, I find this:

Q. Did he make any suggestions as to the sufficiency of the evidence?—A. No further than his great apparent anxiety to get Mr. Price there, and his anxiety that we should consider Price's testimony. He was confident that Mr. Price would be there, and he seemed exceedingly anxious to have him there.]

By Mr. FYAN:

Q. Did he make any remark to the effect that it would be necessary to have Mr. Price there in order to find an indictment?—A. No, sir; not as broad as that; nor I don't think he intimated that.

Q. Did he convey any intimation to you to that effect by his declarations?—A. Not that it would be *necessary* to have Price there, but he seemed to be exceedingly anxious that Mr. Price should be there.

By the CHAIRMAN:

Q. Did he say whether the evidence that he hoped to produce from the examination of Mr. Price was necessary to make out a case?—A. Well, I think he said it would be "a clincher," or something like that. My impression at the time was that he wanted Mr. Price's testimony in order to make up the case; that it was necessary. I might have drawn that inference, though, because I thought it was necessary; or I might have drawn it from the manner in which Mr. Bliss said it; I don't know.

Q. Then you drew from his manner that it was necessary to have Price's testimony to make out a case?—A. No; I say I believe at the time he thought it was. Whether I was influenced in that by my own opinion, because I thought it would be necessary, or whether I was influenced by his manner, I do not know; but I certainly thought that he thought so.

By Mr. VAN ALSTYNE:

Q. Are you willing to say whether or not you submitted your views upon that subject to the balance of your associates?—A. I would not say that.

Q. That is, you are not willing to say whether you did or not?—A. No, sir.

By the CHAIRMAN:

Q. You could not say either way?—A. No, sir; I would not give you any of our consultations among ourselves.

Q. Failing, then, to obtain the presence of Mr. Price, what became of the case so far as Mr. Bliss was concerned?—A. Well, on Saturday we came together expecting to find Mr. Price there, and, he not being there, after deliberating, we went down to court and reported that we had considered everything that had been brought before us, and had made no presentments. That was on Saturday about 1 o'clock, I suppose.

Q. Did Mr. Bliss make any statements to the jury on that day as to the reason for Mr. Price's failure to attend?—A. Simply that he did not understand it.

Q. (Continued.) Now, Mr. Bliss stated before this committee that he did not promise Mr. Price's attendance as a witness before the grand jury; that he might have said that he expected on the trial of the case to have Mr. Price, but that he did not intimate to the jury that he would be before the grand jury. You have heard Mr. Hutchinson's testimony on that point read. Please state whether you have any recollection of the matter stated by Mr. Hutchinson in regard to Mr. Price.—A. What Mr. Hutchinson has stated I can corroborate. He has stated it clearly, as I understand it. Mr. Bliss did say that he expected the presence of Mr. Price, and dwelt upon the importance of his being there; and if it is proper for me to say at the meeting of the grand jury when Mr. Bliss came before us, which was the first time that I had seen Mr. Bliss, his opening remarks were that the jury was called together for a special purpose or a special occasion, not that they wanted any more evidence for indictments against Mr. Brady and Mr. Dorsey, but that they had information that a person in high position might be implicated, and that was what this jury was called together for. He did not name the per-

son for some time, but he used that expression, "a person in high position." But afterwards he did name the party in regard to whom evidence might be presented. I recollect that particularly, because it was the opening remark of Mr. Bliss.

Q. Was there anything said in the opening as to what witnesses would appear before you?—A. He said that Mr. Walsh would be the first witness, and that he expected to have Mr. Price by the next day, or immediately. My impression is that he said Mr. Price was on his way from Canada, and that he expected him before us.

Q. Did you understand from what he said that the question as to whether a case would be made out or not would depend upon the testimony of those two witnesses?—A. No, I do not recollect that.

Q. Was anything said as to whether there should be an adjournment over from Friday until Saturday to await the arrival of Mr. Price?—A. Yes, sir; we were asked to adjourn over, and told that we should probably have Mr. Price before us by Saturday; and Mr. Bliss stated, if I recollect right, why it was urgent that we should act before Monday on account of the statute of limitations. Those things I recollect.

Q. Do you state now that you adjourned on account of that statement expecting the appearance of Mr. Price next morning?—A. That is what we adjourned for.

Q. Are you sure that the statement to you was not to this effect: That Mr. Price would be present on the trial of the case if an indictment was found, and that that would make the case much stronger when it went to the petit jury?—A. Well, I am very clear about his saying that Mr. Price would be before the grand jury, for we adjourned for that very purpose. He might have said that he would be before the court—he might have added that; but I am very clear that we adjourned for the purpose of receiving Mr. Price's testimony.

By Mr. HEMPHILL:

Q. You adjourned for the purpose of receiving Mr. Price's testimony, relying upon Mr. Bliss' statement that he was to be there next day?—A. We had no other statement from any other party but Mr. Bliss. There was no other attorney before us.

R. O. EDMONSTON sworn and examined.

By the CHAIRMAN:

Question. Where do you reside?—Answer. In Washington.

Q. State your age and occupation.—A. I am 29 years of age; I am in the wholesale grocery business.

Q. Were you a member of the grand jury of which Mr. Hutchinson was the foreman, and which met in this city in July, 1882?—A. Yes, sir.

Q. You have heard the testimony of Mr. Willard, who has just preceded you?—A. Yes, sir.

Q. Do you remember the circumstances about which he has testified?—A. Yes, sir.

Q. Will you give your recollection of those facts?—A. Well, what Mr. Willard has said I will corroborate.

Q. You understand the matter just as he did with regard to the promised appearance of Mr. Price?—A. Yes, sir; Mr. Bliss said that Mr. Price would be there. That was the understanding.

Q. It was the grand jury that he was to be before, and not the petit jury?—A. Yes, sir.

Q. And you understood that you adjourned on Friday for the purpose of having Mr. Price present on Saturday?—A. Yes, sir.

Did you regard the evidence that Mr. Price was to give as material in the case, or presumed that it was?—A. Yes, sir.

WASHINGTON, *June 21, 1884.*

H. CLAY STEWART sworn and examined.

By the CHAIRMAN:

Question. Please state your residence, age, and occupation.—Answer. I reside in Washington; my age is 55. I am in general business.

Q. Were you a member of the Hutchinson grand jury that met in this city in July, 1882?—A. I was.

Q. You have heard the testimony of Mr. Willard and Mr. Edmonston in regard to the promised appearance of Mr. Price before that jury; what have you to say as to that?—A. Well, sir, I am positive in my mind, after thinking it over, that Mr. Bliss did say to us that Mr. Price would be there at a subsequent day. I don't know whether it was Friday or Saturday; but we certainly adjourned, the jury expecting Mr. Price to be there next day. I am positive of that. What makes me positive about that is I said, "It is not proper for the grand jury to hold over day after day; you ought to have your witnesses here."

Q. What did Mr. Bliss say to that?—A. I do not remember what reply was made, but having made that remark impressed it upon my mind that we did adjourn for the purpose of receiving the testimony of Mr. Price. I won't be so certain that it was Mr. Price, but it was somebody.

Q. Was it one of the parties mentioned by Mr. Walsh as connected with the case?—A. Yes, sir. We never had but one other witness before us, and that was Mr. Walsh; and I recollect asking Mr. Bliss whether he had't some other witness, and he said, "Yes; this other man (I think it was) Price." I don't recollect names very well, but I know it was some one who was somewhere in Canada, he said. I have not thought much of it since, but I am positive about the jury's adjourning to wait for some witness.

By Mr. HEMPHILL:

Q. And that witness was to come from Canada?—A. Yes, sir; or somewhere from the North.

By the CHAIRMAN:

Q. Was the man mentioned by Mr. Walsh as connected with the transaction?—A. I am not speaking of Mr. Walsh; I am speaking of Mr. Bliss.

Q. But you had heard Walsh's testimony the day before?—A. Yes; he was the only witness we heard, and I asked if there was no other witness, and the reply was that they would have some other witness to come on Friday or Saturday, and we adjourned to that day; and when that day came Mr. Bliss came into the room and somebody asked him about the witness, and he was very sorry that he had not got the witness; I am as positive about that as that I am living.

HENRY SEMKEN sworn and examined.

By the CHAIRMAN:

Question. Please state your residence, age, and occupation.—Answer. My residence is in Washington; I am 59 years of age; I am a merchant.

Q. Were you a member of the grand jury of which Mr. Hutchinson was foreman, and which met in July, 1882?—A. I was.

Q. You have heard the testimony of Mr. Willard, Mr. Edmonston, and Mr. Stewart, have you not?—A. I have.

Q. And also a statement of what was testified to on a previous occasion before this committee by Mr. Hutchinson?—I have.

Q. Please state your recollection of the matters in controversy.—A. It is just about as Mr. Willard stated it; I remember as far as that, though it is a long time ago, and it is very hard to call every conversation to mind; but I remember that the grand jury adjourned over one day; I could not state whether it was Friday or Saturday, expecting another witness, and this witness was to be Mr. Price, who was absent then, I believe, in Canada.

Q. Did you understand that the witness was a material witness in the case?—A. Well, I could not recollect that, but it must have been, for Mr. Bliss asked us to adjourn over.

WASHINGTON, *June 21, 1884.*

GEORGE TRUESDELL sworn and examined.

By the CHAIRMAN:

Question. State your age, residence, and occupation.—Answer. I am 42 years of age; my residence is in this city.

Q. Were you a member of the grand jury that met in this city in July, 1882, of which Mr. Hutchinson was foreman?—A. Yes, sir.

Q. Do you know whether anything was said in the grand-jury room about Mr. Price being present as a witness on a subsequent day, or whether he was to be called?—A. Yes, sir. Mr. Bliss, I think it was who represented the Government, told us that Mr. Price was expected on the following day or the day after to appear before us in that matter that we were investigating, but he stated, I believe, that he was uncertain that he would appear, or that if he did come here at all he would testify that influences might be brought to bear upon him which would prevent him testifying, but he gave us to understand that he was expected here.

Q. Was an adjournment had on that account to await his presence?—A. Yes, sir; that is my recollection.

WASHINGTON, *June 21, 1884.*

JAMES B. COLEGROVE sworn and examined.

By the CHAIRMAN:

Question. Please state your age, residence, and occupation.—Answer. I am 52 years of age. I am residing here for the present. My voting residence is Missouri; I have lived there for the last fifteen years. My occupation is that of a Government contractor. I am also engaged in other business, but that is my proper business.

Q. Are you acquainted with Mr. C. C. Cole, an attorney of this city?—A. I am.

Q. And with Mr. Charles D. Colman?—A. Yes, sir.

Q. Have you read the testimony of Mr. Cole before this committee?—A. I have read the most of it. I have not had time to read it carefully, but sufficiently I think.

Q. Please state what business transaction you had with Mr. Cole in which he acted as attorney for you.—A. Well, Mr. Cole has been my attorney since 1881 in several different matters.

Q. How much have you paid him for his services during that time?—A. That I cannot tell. I paid him \$250 at one time, and I have paid him various amounts since according to the business that he has done for me.

Q. Have you an idea of what the aggregate of it all would be?—A. I should think probably in the neighborhood of \$400.

Q. I think he stated that it was about \$750.—A. That is a mistake. I saw the testimony of Mr. Colman here also. I will begin at the beginning of this matter and go through with it.

Q. State your recollection of the transaction about which Mr. Colman testifies?—A. In the year 1881, there began to be published in this city and in New York a great many statements with regard to the star-route matters, and my name was published in connection with them very extensively. Charges were made against me. Notably, they began to be made in the New York Times, by their correspondent who was then in the Post-Office Department, making investigations. I think his name was Root. The most atrocious falsehoods were published about me in the New York Times, and they were copied into the Star of this city, statements that were garbled and contained only part of the truth—just enough to make me out a very bad man. About that time Charles D. Colman called upon me at my house. He was a man that I knew in Saint Louis during the war. I was then a Government surgeon, and he was provost marshal. He referred to these matters in detail, and stated that he had information that satisfied him that my name would be presented to the grand jury for indictment. I stated to Mr. Colman that I did not fear any indictment—that is, I did not fear the result of an indictment; that my conduct with the Government was clean, that my hands were clean, that I did not belong to any ring, was not associated with anybody, was doing business by myself, and had been for a number of years. Mr. Colman went on to state what the public sentiment was, and that it would cost me a very large sum to defend a suit by the Government, and advised me to take some measures to protect myself. He advised me to procure counsel. I told Mr. Colman I thought the time to employ counsel would be after the Government had taken some measures; that I didn't see any necessity for employing any counsel. He said that to defend against an indictment, if found, I could not employ an attorney of any repute for less than \$3,000; that it would cost me at least that to defend it. He called upon me several times; probably three or four times. We had been friends together, and I took it for granted that he was acting as a friend. He urged upon me with considerable vehemence the necessity of taking some course, saying that otherwise I would probably be indicted. I asked him what course he thought I ought to take. He said he thought that I had better get Mr. Cole, of this city, for my attorney. He referred to the fact that Mr. Cole was a partner of Mr. Cook, who was then the Government counsel in the star-route cases. I asked Mr. Colman if that would not have an appearance of bribery. I told him that I would not take any steps that would look like or have the appearance of bribing a Government attorney or anybody connected with the Government. He stated that he thought that Mr. Cole, being associated with Mr. Cook, would be a valuable man for me to have, and advised me to employ him. I finally consented to do so. I was very much averse to it, though, and so stated to Mr. Colman. Mr. Colman came

to my house and told me that it would cost me \$500 as a retainer. I went with Mr. Colman to Mr. Cole's office and talked over matters with Mr. Cole in a general way, without any reference whatever to star-route matters. I had a considerable business; I have had a very large business, and I had no attorney at that time here, and I so mentioned to Mr. Cole. There was no reference made to the threatened indictment in my conversation with Mr. Cole. He was retained by me as counsel in a general way, with the understanding that the fee was to be \$500 as a retainer. I paid Mr. Colman \$250 of that fee then and there; Mr. Colman handed it to Mr. Cole. It was understood that the balance was to be paid in the course of two or three months. About two weeks after that Mr. Colman came to my house again and advised me to pay the balance of the money. I told Mr. Colman it was not due, that that was not the agreement, but he said he thought it was better for me to pay it. I told him it did not make any difference to me when I paid it. I went down to the bank with Mr. Colman and took out \$250 and gave it to him. From that time until now Mr. Cole has attended to my business regularly. A suit was brought against me by parties at Sedalia, Mo., in behalf of a man who carried the mail for me in Arizona, with whom I had been trying through the Delegate from Arizona to make a settlement. He demanded about four or five times what the service was worth, and I was not going to pay it. I offered to leave it to the Delegate, but he would not do it, and after various efforts to settle the matter he refused to take what I deemed the service was worth and what had been paid for it in prior times; he brought a suit, and got judgment. In that case Mr. Cole acted as my attorney and counsel here in the taking of depositions. There were other matters. I brought suit against parties in New York for quite a large amount—parties who had engaged to carry the mail for me and had thrown up their contracts—and Mr. Cole was engaged in that. My wife had business of her own in which Mr. Cole was engaged as attorney, and he has been engaged in a great many cases; I cannot recall them all now. It has been my custom to go there for counsel. During the existence of Mr. Cook's attorneyship for the Government I never, in a single instance, had any conversation with him at all. I never paid him a cent, and the statement that he was engaged, by whomsoever made, to prevent my being indicted is absolutely and unqualifiedly false.

Q. When was this payment of \$250 made in the office of Mr. Cole?—

A. It was some time in 1881; I cannot tell you exactly the time. I have Mr. Cole's receipt for it, but I have not been able to find it.

Q. It was made some time in 1881?—A. Yes, sir; it was simply a receipt for \$250 as a retainer.

Q. Had you any suits pending then?—A. Oh, yes. No, I don't think I had any suits pending *here*. This Missouri or Arizona matter was pending. The suit in New York had not been brought at that time.

Q. And that payment of \$250 was for services that he was to perform in preventing you being indicted?—A. There was no conversation of that character between Mr. Cole and myself.

Q. Well, it was paid in pursuance of the suggestion of Mr. Colman?—A. I confess that I thought the point was well made—that Mr. Cole would be a good attorney to have under the circumstances—but I explicitly stated to Mr. Colman that I would not put myself in the position of employing a Government attorney in any way, and I entirely refrained from any reference to that matter at that time; and as I before stated, during the time Mr. Cook was the attorney of the Government

I had no conversation with him whatever. I did not know him; I never had been introduced to him.

Q. When you said that you had paid Mr. Cole about \$450 in all, you did not reckon that \$250 that you paid Mr. Colman, did you?—A. Yes, sir; I reckoned that in.

Q. The second \$250?—A. No, sir; I paid that to Mr. Colman.

Q. You do not reckon that as a part of the money you paid Mr. Cole?—A. No, sir; I have paid Mr. Cole small sums since; \$25 and other small sums. In regard to the second \$250 I know nothing about it further than that I gave it to Mr. Colman in the Central National Bank.

Q. Was he to give it to Mr. Cole?—A. I presumed that he would give it to Mr. Cole, but I don't know.

Q. It was intended for Mr. Cole?—A. Yes, sir.

Q. And if that went to him how much did he receive?—A. Then they received between them (Mr. Colman and Mr. Cole) about \$500.

Q. For this purpose?—A. Yes, sir.

Q. Now the payments that you made otherwise to Mr. Cole for legal services amounted to how much?—A. Well, I should say probably \$150.

Q. Altogether?—A. Yes, sir. Now, amongst the outrageous and scandalous falsehoods published about me was a pamphlet signed by Mr. Tidball and Mr. Shalcross, but I have never opened my mouth to this day; I have never been to the Star office about it.

Q. I understand that this pamphlet, of which you speak, is one of the reports of the inspectors?—A. Yes, sir.

Q. What did they state?—A. They made a statement that my securities were insufficient, and that I had altered a contract, and that statement was put into a pamphlet. It was a most atrocious thing. There never was a thing published or put into print by mortal man that was such an atrocity—it was cruel to the last degree. Mr. Shalcross at that time was engaged in the Government service, and was a contractor; which was contrary to law. He had a contract up in West Virginia.

Q. What was that contract for?—A. It was a contract to carry the mail.

Q. Do you know what the points were?—A. It was a star contract. I don't remember the points. It was probably somewhere about Wheeling.

Q. Do you know that of your own knowledge?—A. I do. I saw the papers in the Department.

Q. Was he an original contractor or a subcontractor?—A. He was a contractor, I think, and his son was carrying the mail when a quarrel arose between him and his son.

Q. How large a contract was it?—A. It was not a very large affair; probably two or three hundred dollars a year.

Q. Some neighborhood matter?—A. Yes, sir; the records will show.

Q. There was no controversy in the Department about that service being performed?—A. Oh, no.

Q. And no expedition upon it?—A. No expedition upon it.

Now, I want to state here that I was ready and have ever been ready to meet any indictment. I did not fear it. I have carried the mails probably more extensively than any one man connected with the Government. My service for the fiscal year ending June 30, 1884, has been 3,000,000 miles, under five hundred different contracts; and for the fiscal year ending June 30, 1883, over 2,500,000; and for 1882, 2,000,000 of miles. At the time they made these charges in reference to my securities, I went to the Postmaster-General, Judge Howe, and had an interview with him, and Judge Howe at my earnest request made an

examination of these charges that were made against me, and he pronounced them unfounded. I requested him to examine the matter. He did so, and he told me in person that he saw no ground for these charges that were being published against me, and that my record was clean. And as they had made complaint at that time about the insufficiency of my bondsmen, Governor Tabor, of Colorado, qualified in \$3,000,000 on my bond. I asked Senator Hill to come there, and he came in and indorsed Governor Tabor's statement that he was possessed of real estate to the amount of \$3,000,000, and Judge Howe said: "I know Governor Tabor and I will take judicial knowledge here of his estate and of his responsibility."

Q. Is Governor Tabor now on your bond?—A. Yes, sir, and I have a letter of his on file in the Department, offering to become my bondsman upon any contract that I might then have or should thereafter have, or upon any bids or proposals that I might make.

Q. Has he any interest with you?—A. No, sir—well, I don't want you to put down that answer exactly. It was agreed that on any bids that he signed afterwards, I should divide with him, but not while he was Senator. It was within the last year I put in some bids with his name. But he had never signed any bids at that time. This was a written proposition by Governor Tabor to Postmaster-General Howe, to become my bondsman if they desired him to do so. I was greatly exercised over those matters, as you or any other man would have been. My conduct with the Government was open to investigation all the time. I was a very large contractor, none larger, and I sent word through Mr. Fenwick to the Star, that if instead of publishing the lies about me they would see me I could convince them that they were publishing what was untrue.

Q. Did you have any contracts while Mr. Brady was the Second Assistant?—A. Yes, sir; very many of these were during Mr. Brady's time. I have been a contractor for a great many years.

Q. Did you ever have your routes expedited?—A. No, sir; I never had a route expedited in my life.

Q. You took them at the original contract price and carried them through?—A. Yes, sir; unless otherwise ordered by the Government.

Q. You had none of those routes that were in controversy?—A. No, sir; none whatever.

Q. Can you tell who were the different combinations; the Dorsey combination and the Kerens combination?—A. Yes, sir; I know all these parties well; but you understand that such combinations were kept secret. If there were such combinations they were not made public.

Q. But still those that were inside knew about them?—A. Well, there was a lot of contracts awarded by Mr. Brady, but as to what was called the "Dorsey gang"—that was their soubriquet, or the name by which they went in the Department—Mr. Vaile came in. It was understood that they were going to fail, and did fail. I saw a telegram that Mr. Brady sent them at that time asking what they were going to do. Mr. Vaile was called in. He made a proposition to take this service off the Dorseys' hands. I think Mr. Brady telegraphed Mr. Vaile asking what they were going to do about it, and saying that they would have to fail them up. Mr. Vaile then came to the front and took these Dorsey contracts.

Q. Do you know who constituted the Kerens combination?—A. No, sir; I do not.

Q. Mr. Roots; was he one of the parties?—A. Well, I know Mr. Roots and Mr. Kerens well, and I know that they were associated together in contracts. Beyond that I do not know anything about it.

Q. Of course you had to bid against those combinations?—A. Yes, sir; certainly.

Q. You do not know who constituted those combinations?—A. No, sir. My business has been by myself. I have not been associated with anybody for a number of years.

Q. Do you know how many contracts Kerens and Root had?—A. No, sir.

Q. What interest did Mr. Elkins have in those contracts?—A. That I do not know. I don't know Mr. Elkins. As I was going on to say, I was very much exercised about these publications. They were telegraphed all over the United States, everywhere, and from every place I had service. I was receiving letters as to what this meant. I am very well known throughout the country, and of course it was very injurious to my business. I at one time asked Mr. Cole if he did not think it would be better for me to go right to these Government attorneys, Mr. Merrick, for instance, and say, "Now here, I want you to have the facts about this matter;" and Mr. Cole said he thought it would be a good plan. I did go to see Mr. Merrick and had a conversation with him, and he wrote a letter to Mr. Fenwick in which he stated that there was no intention to do anybody injustice and that my name should not be presented to the grand jury for indictment until I had been seen and heard. I had a conversation with Mr. Woodward and I denounced him to his face. I told him that he was taking a very wrong course, and that he had made public declarations in the Post-Office Department that Mr. French together with myself would be indicted, and that when indicted we would be convicted. I called him to task in severe terms, and he took great offense at my remarks, and immediately thereafter he sent before the grand jury Mr. Boone, who had been seven times indicted for perjury and fraud. Three grand juries have had my case before them and every one of them have declared me innocent, at least so far as any evidence that the Government ever produced.

By Mr. HEMPHILL:

Q. Do you mean to say that you have been presented three times by the Government counsel?—A. Yes, sir; and I engaged Mr. Key of this city to see Mr. Ker, and Mr. Ker told him that if I would give them \$5,000 they would drop it.

Q. That is all hearsay.—A. Well, Judge Key is here in this city.

By the CHAIRMAN:

Q. Did Judge Key tell you that?—A. Judge Key told me that. I called with him to see Mr. Ker.

Q. Did Judge Key say to you that Mr. Ker told him that?—A. Yes, sir; that by the payment of \$5,000 they would drop it. I think it is well enough for these matters to come to the front.

Mr. HEMPHILL. We want to get the facts.

The WITNESS. Well, I am going to state the whole facts. Now, the New York Times published an article in regard to the Georgetown route, in which they charged me with conspiring with Mr. French, then Acting Second Assistant Postmaster-General, and charged him with letting a route to me without competition. They charged Mr. French with giving me this contract and being a beneficiary in it. That is the

charge that Mr. Woodward made. In that connection, here is a telegram :

[Post-Office Department, Office of Second Assistant Postmaster-General.]

WASHINGTON, D. C., *October 13, 1879.*

JAMES STEPHENSON, *Omaha, Nebr.:*

For what sum per month will you perform seven times a week service, from November first to April thirty, from Georgetown, by Montezuma, Haywood, Junction City, and Frisco, to Kokoma, Colorado? Answer immediately.

J. L. FRENCH,
Acting Second Assistant Postmaster-General.

I went to the Post-Office Department, and went to the jacket containing all the papers on this route, and that dispatch had been taken out; it was not there. This route formed the foundation for an article a column long in the New York Times. If the party that wrote that article had seen me I could have produced that dispatch, which would have killed the whole article dead.

Q. What do you understand to be the significance of that dispatch?—

A. Why, that says that another man was asked to bid on it. They said that nobody else bid on it but myself, and that Mr. French gave it to me without competition; but this dispatch shows that he asked Mr. James Stephenson to bid on it.

Q. Who was Stephenson?—A. He was a man who was carrying the mail on that route, as a summer route; this was for winter service. That disposes completely of the allegations contained in the New York Times, as well as in the Star of this city. They made another statement, that Mr. French allowed me to withdraw from routes and to retake them at higher figures. Now that would put Mr. French in the penitentiary if he did that. This business of temporary service, about which there has been so much talk, is historical. The law of 1836 authorized the Postmaster-General to make contracts for temporary service for six months. It was afterwards increased by Congress to a period of one year, and was then afterwards reduced to six months and increased again to one year; and it has been the custom of the Post-Office Department, since 1836, to let temporary contracts. I understood that the Government attorneys went before the grand jury and *argued*—not only cross-questioned the witnesses, but argued and labored to secure an indictment.

Q. You *understood* that?—A. I understood it about as you would understand that there was a convention in Chicago about two weeks ago. It was perfectly notorious in this city.

Q. Did you get that information from any member of the grand jury?—

A. I got it from the attorneys. I got it from my attorney.

Q. Who was your attorney?—A. Mr. Cole.

Q. Do you mean that they argued in behalf of indicting you?—A. Yes, sir; argued in behalf of indicting me—a very reprehensible practice.

Q. What attorney was that?—A. Well, Mr. Ker was with Mr. Boone before the grand jury at the time they sought to have me indicted. I have already stated that Mr. Ker went with Mr. Boone before the grand jury, and Boone was the witness to secure my indictment.

Q. When was this?—A. In the winter of 1882 and 1883. The idea that the grand-jury system can be used in that way, and an attorney for the Government, whose highest motive is a hundred dollars a day, should go there and cross-question and catechise witnesses and then make an *argument* to get an indictment against a man, is a pretty commentary upon the practice of Judge Wylie's court. It is reprehensible

in the last degree. Judge Key can be found; he has an office in this city.

Q. What is his first name?—A. That I do not know.

By Mr. HEMPHILL:

Q. Is he a lawyer?—A. Yes, sir. Mr. French at no time during his incumbency of the chief clerkship at the Post-Office Department, or at any other time before or since, was the recipient of one cent from me as a consideration for awarding me any contract, although that has been repeatedly charged. I hope Mr. French will be called here.

Q. Is there any further statement you desire to make?—A. Well, Mr. Colman states here that Mr. Cole went out of the office and had a conversation with Mr. Cook. That did not take place while I was there. What conversation Mr. Cole may have had with Mr. Cook I do not know, but I had no conversation with Mr. Cole at the time I first saw him in regard to any threatened indictment; and that was not the first business that I transacted with Mr. Cole. The first business that I transacted with him was with regard to that Missouri suit.

By the CHAIRMAN:

Q. Please state when the conversation between you and your attorney, Mr. Key, took place in reference to immunity being offered to you.—A. It was, I think, a year ago last winter.

Q. About what time?—A. I cannot tell you. It is impossible for me to fix dates. Probably along in December or January; it was at the time the grand jury was in session.

Q. The grand jury that was deliberating upon your case?—A. I don't know whether they were deliberating upon my case at that time.

Q. But you state that not only the facts were presented in your case, but that an argument was made?—A. Yes, sir.

Q. Did this conversation to which you have referred occur contemporaneously with that event?—A. Along about that time. I went with Judge Key to see Mr. Ker. First we went to see Mr. Merrick, and he gave Mr. Key a letter to Mr. Ker, as he said he did not have this case in hand, and Mr. Ker did. Judge Key went to see Mr. Ker, and Mr. Ker was very imperious in his manner and would not talk about it. Afterward Judge Key went up to the court-house, and Mr. Ker told him that if I would pay \$5,000 they would drop the case, and Judge Key replied that if he had such a client he would kick him out of his office.

Q. That conversation took place in the court-room?—A. In a little room near the court-room; in the little room that the Government counsel had for consultation.

Q. And that was in the winter of 1882 and '83?—A. Yes, sir; I think so. Now, this information came to me from Judge Key, and I told him to tell Mr. Ker that I would not pay him one cent.

Q. Was it after this alleged conversation that you understood that the grand jury had deliberated upon your case?—A. Yes, sir; it was after that.

Q. And that you had been presented to the grand jury?—A. I know that I was presented to the grand jury. The foreman of that grand jury was Mr. Ledingham, of this city, I think.

Q. Who told you that you had been presented? Did any member of the grand jury tell you?—A. No, sir; I never conversed with a solitary member of the grand jury, first or last.

Q. How did you learn, then, that you had been presented?—A. Well, I learned it through a friend. It was information that was conveyed to me in a way that I know it was true.

Q. How did you know it?—A. Well, he got it from one of the grand jurors. He got it, I think, through the foreman of the grand jury, who stated that there was no evidence. It was not while the case was pending; it was after the case had been dismissed and the grand jury had been dismissed.

Q. What did he say?—A. That they had gone over all the evidence in my case that the Government had presented, and there was nothing on which to found an indictment.

Q. Who was this friend of yours?—A. I cannot tell you that, sir. It would do no good. I will see the party, however, and, if he is willing, I will come and tell you who it was. The publications and threatened indictments that were a matter of talk all the time here through the papers have injured me immensely in my business.

Adjourned.

WASHINGTON, D. C., *June 24, 1884.*

JOHN J. KEY sworn and examined.

By the CHAIRMAN:

Question. Please state your age, residence, and occupation.—Answer. I am sixty-seven years of age. I reside at 3327 P street, West Washington. I am an attorney at law.

Q. State whether you were at any time attorney or counsel for Dr. J. B. Colegrove.—A. I was.

Q. When?—A. About a year ago; perhaps a little over a year. I don't remember the time exactly, but it was within the last two years.

Q. What was the nature of that business, generally?—A. It was a special employment by Dr. Colegrove of me. I was not acquainted with him until he came to my office. I knew of him, but I do not think I personally knew him until he came there, though I did know his wife and family, and knew who he was.

By Mr. VAN ALSTYNE:

Q. Was he formerly a minister?—A. I do not know, sir.

By the CHAIRMAN:

Q. He was a mail contractor?—A. He was a mail contractor.

Q. Did he ask your assistance in regard to any of his mail-contract matters?—A. He asked my assistance in connection with the indictment about to be found against him by the grand jury of the District of Columbia in connection with mail contracts.

Q. State whether you had during your employment any conversation with Mr. Ker, the Government counsel at that time.—A. Yes, sir; I had two conversations with Mr. Ker.

Q. Please state what occurred at both those interviews, and when and where they took place.—A. Both interviews took place at the city building where the courts of the district sit. The interviews were in one of the court rooms there. The object of my calling upon Mr. Ker was to inform him of the character of Dr. Colegrove, and to endeavor, by the presentation of facts or statements made by Dr. Colegrove to me, to convince him that it would not be right to indict a man under such circumstances. I suppose I had better state the circumstances which led me to call upon Mr. Ker, so that the committee may understand the matter fully.

By Mr. VAN ALSTYNE:

Q. Where was this first interview between you and Mr. Ker?—A. It was in one of the court rooms of the city building.

Q. Do you remember which one?—A. Yes; it was in the one in which the criminal court sat at that time.

Q. The room in which the star-route case was being tried?—A. Yes; I think so.

Q. Do you remember the month?—A. No; I do not remember the month. It was at the time that this matter of the indictment of Dr. Colegrove was before the grand jury.

Q. The grand jury was then in session?—A. The grand jury was in session.

Q. Do you know what prosecuting attorney had the jury in charge?—A. I understood that Mr. Ker had, but I do not know.

Q. Do you know how many grand juries he did have in charge?—A. I do not.

Mr. VAN ALSTYNE. It is a fact that he had but one.

The WITNESS. Well, I don't know anything about that.

Q. Did you approach Mr. Ker?—A. I did.

Q. What did you say to him?—A. Now, if the committee will permit me, I will explain why I approached Mr. Ker. I want to explain that because it was not directly in the line of the practice of the business of an attorney defending his client. Dr. Colegrove came to my office, and then, for the first time, I was informed that an indictment was about to be found against him, or that he feared that an indictment would be found against him by the grand jury. The charge, he informed me, was of participation in a conspiracy alleged to have been entered into between him and other parties to defraud the Government in a mail contract. He went on and made a statement to me of all the circumstances, which I will not detain the committee by detailing fully now, but from his statement I came to the conclusion that he was not guilty—not only that he had not been guilty of taking any advantage of the Government, but that he was not guilty of any of the charges made against him. He asked me if I knew Mr. Merrick; I told him I did; he said, "I wish you would go and see Mr. Merrick and tell him about this." I agreed to do so. One of the reasons why I did it was this: Dr. Colegrove represented to me that he had a large number of mail contracts, and that his mail-routes had been sublet to a vast number of persons; that he had had for many years an extensive business in the West, and was known to a great number of persons there and throughout the country; that if this indictment was found against him, although he would be entirely innocent, yet it would do him great damage, and would perpetrate a great wrong upon him; that it would affect his relations with his subcontractors, who would become timid and fearful about getting their pay; that the fact that he was indicted would go forth to the world, and that, although he would ultimately be found innocent, still the stain would rest upon him to a very great extent. He said also that his wife was in great distress of mind; that she had a very influential connection in Kentucky (which I knew to be the fact, because many of the persons referred to were known to me), and that she was in a dreadful condition of mind and felt that they would be eternally disgraced if this indictment should be found. He said to me, "If you can see Mr. Merrick and tell him these circumstances, perhaps it may stop this matter." I went to Mr. Merrick, whom I knew very well, and after stating to him the facts which I have just stated to you he said, "I can do nothing in this matter myself, but you go to Mr. Ker and tell

him exactly what you have told me." I said, "I do not know Mr. Ker. I never have spoken to him. In fact I don't know whether I would know him if I should meet him on the street." "Well," said Mr. Merrick, "I will give you a letter to him;" and he sat down and gave me a letter to Mr. Ker, saying, I believe, in substance, that any statement I might make Mr. Ker might rely on, and so on—the usual letter of introduction; also stating the business on which I wished to see Mr. Ker. I went and handed the letter to Mr. Ker. I found some difficulty in making him hear me, but I stated the case to him. I do not know that I stated it quite as fully as I have stated it here, but I gave him a general outline of the case. He was very reticent; he said nothing until I got through. Finally he said substantially this: "I don't believe these men are innocent." Those were the first words he uttered. I recollect that distinctly. Then he said, "I have proof that they are guilty." I said to him, "Mr. Ker, if your proof rests upon the charge or the statement, or the evidence of this man Boone, I can tell you not only that he is under indictment, but I have seen letters to Dr. Colegrove attempting to blackmail him, and it is simply a matter of spite on the part of Mr. Boone. His character I know only from the public papers and from the statements I have heard in regard to him, but I judge, from all I hear about him, that no jury would believe him under oath, and unless you have evidence outside of Boone and one other witness, whose name I do not recollect at this moment, it would be wrong to indict a man who is in good standing, and who would be greatly injured and disgraced, upon the oath of such a man as Boone and others who, I understand, are joined with him in this conspiracy against Dr. Colegrove." Mr. Ker listened to what I said, and then he said this: "Let Colegrove make this thing good to the Government—that is, the loss the Government has suffered by this conspiracy." I said, "I understand that you require that Dr. Colegrove shall arrange to pay any amount which the Government may claim that they have been deprived of by his action; I will tell him what you say." Just at that moment Mr. Ker got up and said, "That is all I will do," or something to that effect, and the interview terminated.

By Mr. KER :

Q. Was that in the room or in the entry?—A. I do not recollect. There was a portion of the interview in the entry and a portion in the court-room—not exactly in the entry, I think, but in the small ante room right adjoining. I returned to my office and told Dr. Colgrove what had been said as I understood it. He had been laboring under very great excitement. He said, "This is outrageous. I did the Government a service. I never had a more fair contract in my life, and no one could be fairer. I have not in any way, shape, or form connived or conspired to defraud the Government of one dollar." He said further, "This is going to ruin me. It will ruin me financially. I have many contracts out, and if I am indicted it will be utter destruction. I don't know what to do. What do you advise me to do? I would rather pay what I don't owe, taking so much out of my pocket, if I could stop this matter and prevent this great injury. Then, too, my wife has not slept for nights." Said I, "You want my advice as to what you shall do?" "Yes," said he, "just tell me what to do." "Well," said I, "don't you do that. It would be taken as a confession of guilt, and if you are an innocent man you had a thousand times better stand your trial than in any way recognize the theory that you have joined in a conspiracy to defraud the Government. But, said I, "it is too impor-

tant a matter for you, Dr. Colegrove, to decide at once, and you had better consult your wife and see what she says." He said, "I will do so." Next morning he came to my office and said that he had talked the matter over with his wife and had told her what I had said, and that she agreed with me that it would be better for him to stand a trial and show himself innocent than to admit in any form or manner that he had been guilty of what was charged against him. I said then, "Dr. Colegrove, I will go and tell Mr. Ker, and let it go on." Then the second interview took place with Mr. Ker. That was, I suppose, about the same place and in the same manner.

By Mr. VAN ALSTYNE:

Q. How long after the first interview was it?—A. It was either the first or the second day after the first interview—immediately after. I told Mr. Ker about it. He said, "You don't understand me. I don't want that. That is not it, sir. If this man will give me information by which I can convict and bring conviction to other parties, I will not continue this prosecution against him." Well, as a matter of course, I knew whom he meant. I don't know whether Mr. Ker called the name of the party or not—that I cannot say positively; but I knew to whom he referred, and I replied as if he had called the name. Said I, "Dr. Colegrove says that he is innocent of any wrong in this matter; that Mr. French is innocent also, and that there has been no combination between them. If he were to tell me now that he would turn informer I would kick him out of my office." There the interview ended, and that is all there is in the story.

Q. Then the whole upshot of the matter is simply this: In the first interview Mr. Ker insisted that Dr. Colegrove was guilty of wronging the Government?—A. That he was guilty of participation in a conspiracy. As I understand it, the charge was conspiracy between this man Boone, Dr. Colegrove, and Mr. French, the chief clerk. I do not know whether other parties were connected with it or not, but the charge was that those three parties had conspired together for the purpose of obtaining a contract from the Government in a fraudulent way and contrary to law.

Q. But you understood Mr. Ker to say at that time that before Colegrove should have immunity he must make the Government good?—A. I understood him to say that before Mr. Colegrove could have immunity he must make the Government good. In the second interview Mr. Ker said that that was not it.

Q. That you had misapprehended him?—A. No. He turned around and said, in a very quick, short tone, "That is not it, sir. If he will give me the information by which I can bring conviction to this man, then I will do what you want." That is the substance of the remark.

Q. You did not understand from what Mr. Ker said to you that he suggested any corrupt action?—A. None whatever.

Q. If Mr. Colegrove derived such a notion from any conversation you had with him, he was laboring under a misapprehension?—A. Yes, sir; a misapprehension. Mr. Colegrove simply recollected that he was asked to make good the amount which the Government had lost. That was what I intended to convey to him, what I did tell him; and he declined to do it for the reasons I have already stated.

By the CHAIRMAN:

Q. Mr. Colegrove was in "a state of mind" just at that time?—A. Yes, sir; you never saw any one suffering mentally more than he was. He looked as if he hadn't slept for nights. Now, gentlemen, I have only a word more to say, and that is this: I have heard Dr. Colegrove state all

these matters half a dozen times. I have watched his statements very closely, and I have found just enough variations in them to show that he was telling the truth all the time. I do not believe that Dr. Colegrove is guilty of what has been charged at all.

By Mr. VAN ALSTYNE :

Q. In these two interviews that you had with Mr. Ker, a portion of them being in the room where the court was held and the remainder in the ante-room, I suppose you talked *soto voce* to a certain extent, did you not?—A. Yes, sir. There is a possibility and there is a probability that Mr. Ker only heard part of what I said, but he understood the general tenor of it, and the object I was there for.

WASHINGTON, June 24, 1884.

JAMES B. COLEGROVE recalled and further examined.

By Mr. VAN ALSTYNE :

Question. You testified on Saturday of last week before the committee?—Answer. Yes, sir.

Q. You then made a statement of what you understood to have been a communication from Mr. Key, your counsel?—A. I did.

Q. You have talked with your counsel since upon that subject?—A. I have.

Q. Have you learned from the conversation which you have had with Mr. Key since then that you were laboring under a misapprehension as to the purport of the communication he had made to you at the time you gave evidence about it?—A. I think I was, sir. But right here let me say the language which I used in giving my testimony was this, that Mr. Key told me that Mr. Ker had stated to him that for the payment of \$5,000 the matter would be dropped. Those are the words that I used last Saturday.

By the CHAIRMAN :

Q. Well, you did not stop to inquire whether that money was for the Government or for the counsel?—A. No, sir ; I did not. The proposition coming at that time to me was simply horrible ; it was atrocious.

By Mr. VAN ALSTYNE :

Q. (Interposing.) You were laboring under the idea that it was going to the counsel?—A. Yes, sir. I have since ascertained from Mr. Key, who told me on Saturday night, that I had misunderstood him, and I came to the chairman of this committee yesterday of my own accord and told him that I owed Mr. Ker no grudge, no spite, no malice, and that I did not want to do him or any other any harm. I have suffered wrong continuously for three years. I have been outraged most shamefully, and even since my testimony was given here on Saturday I have suffered by misrepresentations in the press. I was persecuted here steadily for three years, followed and hunted down with the most injurious and slanderous misrepresentations.

Q. That has grown out of your business, I suppose?—A. It has grown out of the evil that is in men's hearts.

Q. It grew out of the fact that you were an extensive contractor?—A. Yes. I want to say here now that I did not recognize Mr. Ker's authority to make any demand upon me whatever. Mr. Ker knew and knows now that there is an Auditor in the Department, and that if I owe the Government it is the Auditor's business to collect the money.

By Mr. VAN ALSTYNE:

Q. Do you now, as an honest man, insist that Mr. Ker did make any demand upon you in any form?—A. No, sir; I am only explaining to the committee the influences that governed me at the time, and how it was that the impression came to me that Mr. Ker made a demand on me for \$5,000, when I did not owe the Government one cent.

Q. You say, however, that that impression has been removed?—A. I say now that Mr. Key explains it by saying that Mr. Ker understood that I had had a corrupt contract with the Government, and said that by the payment of \$5,000 I could liquidate the damages which the Government claimed to have sustained from me. But I say, in connection with that, that Mr. Ker, acting as an attorney in the prosecution of the star-route cases, had no authority whatever to make any demand upon me for anything; that the Auditor, who has under him a small regiment of clerks, men of experience, was the proper man to supervise my accounts, and if there was found to be a cent due the Government, those officers of the Department would find it out. It was their business to see to all this, and hence, in my judgment, and with the feelings that I had upon that occasion, it seemed to me to be a very great outrage indeed that any demand whatever should be made upon me by the counsel.

Q. You knew very well at that time that a large number of men had been indicted for frauds upon the Government in various conspiracies in connection with mail contracts?—A. Certainly. I stated all this to the committee last Saturday.

Q. And you knew pretty well that your contracts were mixed up with those of that class of people?—A. I knew that my name was mixed up in the business by parties who were making accusations, but, as I have already stated here, I had no connection with anybody else, and never engaged in any wrong or conspiracy of any kind or character.

Q. You have never had any dealings with Mr. French?—A. I never had any corrupt dealing with Mr. French in my life.

Q. Have you had any business dealings with him?—A. Well, I have had business in connection with these mail contracts.

Q. In connection with those contracts?—A. No, sir; no business dealings except with him as an officer of the Government, just the same as I have now with Mr. Lyman—nothing different.

Q. Mr. French never received pay on any of your routes?—A. I am very glad you have brought that up, and as you asked me that question I want to say here, once for all, that John L. French never received from me a single nickel, not the value of one farthing, in any way, in connection with any mail contracts that he ever awarded to me.

Q. Directly nor indirectly?—A. Neither directly nor indirectly. And, furthermore, I believe Mr. French to be as pure a man as the sun shines upon in all its course.

Q. You were taking exception to the presentation of your name to the grand jury, and you were finding fault with the prosecuting officer because he had not refused to listen to the witnesses against you. Don't you think that was going a pretty good way?—A. I went to this man Ker—

Q. (Interposing.) You did not; you sent somebody else.—A. No; Judge Key and I went together. I stated here on Saturday that Mr. Merrick had given Judge Key a letter of introduction to this gentleman, and that Judge Key complained to me of the treatment which he received from Mr. Ker in that connection.

Q. That Mr. Ker was not courteous?—A. Yes, sir; that he was discourteous.

Q. That he would not listen to your counsel's statement?—A. That he would not listen to him; that he treated him discourteously.

Mr. KER. The counsel believed his client innocent, and I did not. I suppose that was the trouble.

The WITNESS. I don't know what the trouble was. I know this, that I have never had any corrupt dealing with this Government, and that my hands are as clean as yours [addressing Mr. Ker] or as the hands of any other man.

By Mr. VAN ALSTYNE:

Q. Would you not naturally suppose, if you were entirely free from blame or criticism, that, although there was an effort to present your name to the grand jury, it would be an absolute failure?—A. Well, I did believe it would be a failure, but I didn't *know* that, for I could not tell that fact in advance.

Q. You had no reason to suppose that any of the prosecuting officers had any enmity against you?—A. I didn't know that either.

Q. You were a stranger to Mr. Ker?—A. Yes; and to all of those gentlemen.

Q. And you had no reason to suppose that Mr. Ker or any of them entertained any enmity against you?—A. I had no reason to suppose that they did. They had no reason for any such feeling.

Q. Had you procured assistance from anybody else than Judge Key in this matter previous to that?—A. Yes, sir; I had. I explained that fully on Saturday.

Q. You had Mr. Colman?—A. I had Mr. Colman and Mr. Cole.

Q. Did Mr. Colman volunteer to act?—A. He did. He came to my house. I had known him in Missouri, as I explained last Saturday.

Q. How long was it after he came to your house before you saw Mr. Key?—A. He came to my house probably a year and a half before that.

Q. You had retained Mr. Cole?—A. I had retained Mr. Cole.

Q. In the same business?—A. Now, in this connection, let me say that a young gentleman named Harding came to me and told me that Judge Key was a friend of Mr. Merrick, and advised me to see Mr. Key, and I went, upon the suggestion of this young man, to see Mr. Key, thinking that I could bring the matter directly before these Government attorneys. I had such confidence all the time in my integrity that I wanted to go direct to the Government attorneys with my case; I wanted to stop this blasting of my name before the entire country. I had contracts all over the country, and this matter injured me very materially.

Q. You did not expect to spread the facts before the Government counsel, but only that they should hear the statement of your legal adviser and rely upon that?—A. No, sir; not that at all. I wanted to take all the facts and the evidence and lay it before those men and let them *see* that I was innocent.

Mr. KER. Mr. Van Alstyne, if I remember right, the price for which this route would have been let to Callan, the lowest bidder, was \$10,000, and the price that Mr. Colegrove got it at was \$15,000, and the difference between those two prices would, of course, be \$5,000.

The WITNESS (ironically). That is a good suggestion.

By Mr. VAN ALSTYNE:

Q. How was that?—A. You will hear all about that contract now; and in this connection, Mr. Chairman, I hope you will call Mr. French.

Mr. VAN ALSTYNE (to Mr. Ker). What route was that?

Mr. KER. I cannot remember.

The WITNESS. I know what route it was. It was the route from Gainesville to Tampa, Fla. Mr. Boone, through another party, had failed on the route.

Q. That route was to let; how many bidders were there?—A. I can't tell you how many; there were probably eight or ten.

Q. And you were one of them?—A. No, sir; I didn't bid on it at all originally. Mr. Boone came to me, in the Department, and said, "This route has failed; a cyclone has gone over the peninsula of Florida and destroyed all the roads, and I want you all to keep your hands off"—

Q. (Interposing.) What price did he have the route for?—A. He had it at a considerably less price, probably about \$10,000. I give that as a guess; I have no accurate recollection of the amount of the original pay. Mr. Boone comes to me, in the Department, and says, "Here, this route has failed, and I want you all to keep your hands off, and I am going to have it put up to \$40,000 a year." I said, "How are you going to do it?" Said he, "There will be no other bidders on it." Mr. French came to me and said, "Dr. Colegrove, there is a proposition here by which the Government is to be wronged, and I want you to put a bid on that service." He also went to Mr. A. H. Brown on the same business.

Q. Who is he?—A. A contractor here in Washington. Others were appealed to in the same way, and we all put in bids, and amongst the rest was a bid by a Mr. Callan, which proved to be a straw bid.

Q. Was he a contractor too?—A. No, sir; he is a notary public in this city. That was a straw bid, and there was no intention to carry it out, and I charged Boone with having put in a straw bid there.

Q. What was the amount of Callan's bid?—A. It was a little under mine.

Q. Was it \$12,000?—A. It may have been a thousand dollars under my bid. I don't remember the amount exactly. Now, I charged this home upon Boone.

Q. (Interposing.) What was your bid?—A. Fourteen thousand six hundred dollars about; it may have been fourteen thousand and between \$600 and \$700. When I charged Boone with putting in this straw bid he went in and took out this Callan bid, and Callan came in and told Mr. French, in my presence, that he was very sorry about it, and said that if Mr. French would forgive him he would never do such a thing again in the world. Then Mr. French went to Postmaster-General Key and told him the facts, and they decided to award the route to me. Those are the facts in that case.

Q. What do you mean by a straw bid?—A. A bid that is put in without any intention to execute it or to execute the contract on it, to carry it out.

Q. What was the service on that route really worth?—A. All I got for it and more.

Q. You sublet it?—A. Yes.

Q. For what amount?—A. For just \$1,000 less than I got it for.

Q. You sublet it for \$13,600?—A. Yes.

Q. You made \$1,000 on it?—A. Yes, sir.

Q. And you have reason to think that Callan's bid was a straw bid, and that he did not intend to carry it out?—A. Yes, sir. He stated that fact to Mr. French in my presence.

Q. Boone, you say, wanted you to keep your hands off?—A. Yes, sir; he wanted us all to do so.

Q. And you, as one of the contractors, would not stand to that arrangement?—A. No, sir.

Q. You made your own bid?—A. Yes, sir.

Q. And your bid was made in good faith, and you made \$1,000 on it?—A. Yes, sir.

Q. And when you told this other man Boone that he was acting corruptly, he got down on his knees and begged for mercy?—A. No; that was Callan. I charged this thing upon Boone, and he went in and withdrew Callan's bid, showing that he had put in two bids—his own and another.

By the CHAIRMAN:

Q. Did not Callan give security on his bid?—A. No, sir.

By Mr. VAN ALSTYNE:

Q. How came it to be considered, then?—A. Because it was a failed-up route, and the law did not require security.

By the CHAIRMAN:

Q. The law did not require you to give security?—A. No, sir.

By Mr. VAN ALSTYNE:

Q. Now, don't you think that that whole transaction as you state it, unexplained, squinted towards a conspiracy?—A. Well, that is the reason I wanted to go to this man (Mr. Ker) and tell him the facts, but I could not get to him. He was away above me—as inaccessible as the Autocrat of all the Russias.

Q. How long have you been a contractor?—A. Twelve or fifteen years.

Q. Have you followed that business exclusively?—A. Yes.

Q. Were you originally a minister?—A. Never.

Q. You are now a mail contractor?—A. Yes, sir. During the fiscal year ending June 30, 1884, I have carried the mails three million miles, and for the fiscal year ending June 30, 1883, I carried the mails two and a half million miles; counting the whole amount of travel, steamboat, railway, and all.

Q. How many routes have you got?—A. Nearly 500.

Q. At the present time?—A. Yes.

Q. Do you work them yourself?—A. Some of them. I sublet some.

Q. What proportion do you work?—A. Very few.

Q. As a rule you sublet?—A. I sublet, of course; and my service I think has been carried with as little trouble to the Government as any, or with less trouble than that of any other contractor or set of contractors.

By the CHAIRMAN:

Q. How much do your receipts from the Government aggregate?—A. My gross pay I should say is about \$160,000.

Q. On all the routes?—A. Yes, sir; I should say so. I don't know the amount exactly, but I guess it is about that.

Q. What are your earnings on the sublettings?—A. On several routes I am losing heavily.

Q. Not on the subletting?—A. Yes, on the subletting. There is one route in Arizona on which I lose \$1,000 a year, and one in Kansas on which I lose \$500 a year—

Q. (Interposing.) Those routes you work yourself?—A. No, sir; I could not stock them. I have not got means enough to stock them.

Then, on those routes on which you lose, you pay a man a pre-

mium for taking them off your hands?—A. I make a contract with a man to do the service for so much money, and when pay day comes he is paid.

Q. Where you sublet, you turn over the contract?—A. No, I do not turn over the contract. The Government does not release me. I am held on my contract.

Q. Just explain this subletting.—A. I will. I go out into a town, either myself or my agent, and I find a man there who is out of business and who has got some stock and is hard up and looking for something to do, and I make the best bargain I can with him.

Q. During the last five years have you made a contract with any man for mail service where you have paid him more than you have received from the Government?—A. Unfortunately a great many. I pay Emerson at Dodge City \$500 more per annum than I get for the service, and on the route from Navajo Springs to Springfield, Ariz., I get \$5,500 a year, and I pay \$6,000 and odd. That is the situation so far as that is concerned.

There is one point more that I want to state here that incensed me, and I think Mr. Ker will admit that I had a right to be incensed at it. That is, his proposition to Judge Key that if I should give them some points on Mr. French, that then my matter should be dropped—even the whole \$5,000 that they had demanded.

Mr. VAN ALSTYNE. Oh, no; that was not it.

The WITNESS. That was the way I got it.

By Mr. VAN ALSTYNE:

Q. Don't you know that it was your duty as a good citizen, if you possessed any knowledge of criminal acts on the part of any officer of this Government, to communicate it?—A. It was my duty, and I should most certainly do so.

Q. Then all there is about this thing is, that you were surprised that Mr. Ker should suppose that you possessed knowledge of corrupt acts to which you were supposed to be a party?—A. No, sir; pardon me for correcting you, but that is *not* it. The case is this, that after a demand for a payment from me of \$5,000 which I was supposed to owe the Government, there should be a proposition to waive that, provided I would give the Government some points on Mr. French.

Q. You understood that to be the proposition?—A. Yes, sir; and I so understand it now.

Q. Didn't you hear Mr. Key say that when he made his second statement to Mr. Ker, Mr. Ker said, "That is not what I mean," or "That is not it"?—A. Well, but I want to say——

Q. (Interrupting.) That if you were one of the gang, you would not disclose?—A. No, sir. Excuse me; I don't want any such reflections as that cast upon me. I repudiate that most emphatically.

Mr. VAN ALSTYNE. The repudiation is all right. If you were one of the gang——

The WITNESS (interrupting). I have not said so. I say this, that I do not know, and never have known, of one solitary thing against John L. French, and I believe him to be as pure as the sun itself; and you can't find a man, from Mr. Lyman clear down to the bootblacks in the Post-Office Department, that will not admit that he is as pure as the sunlight.

Mr. VAN ALSTYNE. That is a matter that I know nothing of.

The WITNESS. Of course not. I stated yesterday to Mr. Springer voluntarily and of my own accord, that at the second interview which

Judge Key had with Mr. Ker, Mr. Ker proposed to have me come there and divulge something against Mr. French, as the condition upon which this whole business against me should be swept away.

Mr. VAN ALSTYNE. And you were very indignant at that.

The WITNESS. I was, sir.

By Mr. VAN ALSTYNE:

Q. Why didn't you say to Mr. Ker, "I could not if I would; I don't know anything."—A. I couldn't reach Mr. Ker; he was as high as the sun; he couldn't be reached.

Q. That was because he thought you were going to stick to your friends.—A. I don't know what the reason was. Mr. Key was very much annoyed. I think the reason of Mr. Ker's conduct was that he got up cross that morning; that is my opinion about it. I have not directly or indirectly reflected upon anybody, but I have been a target for years for the most malicious and unfounded charges. All my conduct has been open and subject to examination. Here is this contract division, at the head of which is Mr. Lyman, and which was presided over at the time these matters were up by Mr. French, who was acting as second assistant. Under the head of that division is a vast retinue of clerks. Then, there is the inspection division, also with a large retinue of employés to inspect all this service. Then, after that comes the auditor to look after these matters.

Q. Yes, but the authorities outside of the Post-Office Department were finding more fault at that time with the men in charge of the service than with the people outside who trafficked with them.—A. Then, why on earth did they assail me? Can you tell me why it is that newspapers will go on and publish charge after charge against a man without the slightest foundation in fact?

Mr. VAN ALSTYNE. I don't know anything about that.

The WITNESS. Well, it touches me in a point where I have suffered. I have been greatly wronged, and have been a great sufferer, both in my business and in my character.

Adjourned.

WASHINGTON, *June 25, 1884.*

WILLIAM A. COOK, again appeared before the committee and testified as follows:

The chairman called on Mr. Cook and stated it would be necessary for him to be brief.

The WITNESS. Mr. Chairman, I addressed to this committee, some time since, a letter, which, for the sake of brevity, I will now read:

WASHINGTON, D. C., *May 7, 1884.*

GENTLEMEN: At the conclusion of my testimony in March last, I requested that I might be recalled before your committee in the event that any essential part of my statements should be assailed by any other witnesses.

This has been done chiefly by expressions of "belief," and narratives of alleged declarations of dead men, blended with the pretended utterances of a few living.

These, however, involve my professional and official character and conduct, in connection with "the star-route cases," and it is not proper that the various assertions allowed to be made from "the witness stand" should go uncontradicted or unexplained. Neither the committee nor the public shall be allowed to be misled or deceived.

Besides, I have additional papers, and, I may add, facts, which, with a view to a fair and impartial investigation and correct conclusions, should be laid before the committee.

I trust that I have too much respect for the committee to appear before it to indulge in mere vituperation, or to even attempt to occupy its time with impertinent and irrelevant matter.

My numerous engagements require all my time; but I will arrange my business so as to be able to appear before the committee any day next week.

Very respectfully,

WILLIAM A. COOK,
Office, 402 6th street, n. w.
P. O. Lock Box 71.

To the Committee of the House of Representatives on Expenditures of the Department of Justice.

I presume that letter was in some way overlooked.

The CHAIRMAN. No, sir; I notified your messenger that I would inform you when you could be heard, and this is the first opportunity that we have had to give you a hearing.

The WITNESS. Very well. Now, in deference to your statement, Mr. Chairman, as to the limited time of the committee, I presume that I had better confine what I have to say to matters which may be regarded as personal, and omit for the present the additional facts that I have in reference to the case, as they would extend the investigation manifestly beyond the time that is under your control at present. Hereafter, I presume, I can present those facts in some form to the committee.

Now in the first place, Mr. Bliss saw fit to state to this committee that in my office on a certain occasion I referred to Mr. Kellogg and said, in substance, that he was a client of mine and should be protected. No such statement was ever made to Mr. Bliss in my office or any where else by me. It is a studied, deliberate falsehood, a pure invention. Mr. Kellogg was *not* then a client of mine. His case in the Spofford-Kellogg contest in the Senate was conducted on his side by Messrs. Wilson and Shellabarger. The statement attributed to me by Mr. Bliss could not have been made, and never was made. At that time there had been nothing brought to my attention in relation to Mr. Kellogg in connection with the star-route cases, nor was I aware that any accusation existed against him, and I had strong reason to believe otherwise.

With regard to the papers that have been mentioned as in my possession, in order that I may be brief, I will refer to the letter I addressed to the Attorney-General and annex it to my testimony. In reference to those papers Mr. Bliss said, in a letter which I have in my possession, that they were of no consequence to anybody. In fact, they were mere general abstracts of no value, except, perhaps, to some extent, to an attorney in the preparation of his case. It was strongly intimated that the defendants obtained papers from me. They never obtained, directly or indirectly, any paper from me. If they obtained any papers improperly, those papers were probably obtained through the action of Mr. Bliss and Mr. Woodward, by whom the safes were locked up, and charge taken of the papers, so that no one else could have any access to the papers, or could allow a single one of them to go out of the Post-Office Department. Mrs. Gregg never copied any of the papers for me.

I perhaps may pass, with this general statement, from Mr. Bliss to Mr. Woodward. There is not one statement made by Mr. Bliss in any way reflecting upon me that has the slightest foundation in fact. The explanation of Mr. Bliss's conduct is unquestionably this: That after the death of President Garfield, and after he ascertained that he could have full control of the star-route cases, he desired to exclude from it every one over whom he could not have control, so that they might be

conducted according to his own conceptions and purposes, and in doing that he took in with him one man—Mr. Woodward. It is said by Mr. Bliss that I desired the appointment of district attorney. That is an absolute falsehood. His statements to me were that President Arthur had selected a friend of his for the position, and in a little while would appoint him. I never desired the position nor intimated to him that I did. It is equally false that I furnished him the name of Mr. Cole, my partner, as a candidate. I furnished him one name only, and that was the name of Mr. A. C. Bradley; no one else. Mr. Woodward has said, among other things, that one Lilley stated that I received, in connection with what are called the Brott and Lilley indictments, \$250. The statement is placed by Mr. Woodward in the mouth of a dead man. Its value the committee can determine. It has no foundation whatever in fact. I never received any money in that matter. Mr. Brott disappeared, it was supposed at the time, with the co-operation of Mr. Woodward; whether correctly or not I do not know. It is certain he opposed the finding of the indictment and subpoenaing of witnesses. When I took the case up before the United States commissioner, he was not present. It was the purpose then to depend in part upon Brott to secure the indictment against Lilley. Failing to have him present, or to secure his attendance, I at once arranged to secure indictments against both Brott and Lilley. They were found, but have not been tried up to this time. It has been said that those indictments depended on the testimony of Brott. It is not true. When I left the Department of Justice, letters which had passed between Brott and Lilley, containing evidence of guilt, were in possession of the Post-Office Department, and copies of those I can procure.

By Mr. VAN ALSTYNE :

Q. Of letters of both parties?—A. The correspondence between Brott and Lilley clearly implied that if the one was guilty the other was also, and I have never had any doubt of the ability of the Government to convict one or both those parties, independent of the testimony of Brott. We are accustomed to speak kindly of the dead, but there are, perhaps, occasions which require us to speak otherwise. There was no man capable of doing improper acts more freely than Mr. Lilley. He became the frequent associate of Mr. Woodward, in the office where we had our papers; so much so that before I resigned, whenever I approached that office to obtain information, or to procure papers, Mr. Lilley was present as an obstacle, and I could make no inquiries, nor procure any information. Mr. Woodward was accustomed to visit at his house, and the two were much together. This was the Lilley that the testimony shows was concerned in procuring contracts and other matters in the Sixth Auditor's Office—not the indicted Lilley; but his father.

Q. What business had he ostensibly at the office, so far as you could learn?—A. None whatever. The rule established by Mr. Gibson and myself was that no one should be admitted into that office except employés or officers of the Government.

Q. Then Lilley was there as a privileged character?—A. Yes, sir.

Q. By reason of the indulgence of some one?—A. By reason of the indulgence of some one.

By the CHAIRMAN :

Q. He was an attorney for the contractors?—A. Yes, sir; a sort of general attorney, not merely in settling up their accounts, but in procuring contracts—using influence for that purpose. I have now authority to say to you what I had not authority to say before, that at least

part of the papers obtained by the defendants, or the mode of procuring them, was through parties in the Post-Office Department; that papers were procured and were conveyed in that way to persons who were not entitled to have them, for some purpose, proper or improper.

Q. You say you have authority to say that?—A. I have the authority.

Q. From whom?—A. Col. William P. Wood.

Q. What authority has he?—A. This authority, as I understood him, that he was acquainted with an employé, or with one or more employés of the Post-Office Department who could obtain papers from that Department and through whom they were obtained by him, not corruptly but as a demonstration that there was leakage in the Department. You may never know how the papers got out, and possibly never will fully, but that is a fact which I have authority to state to you now. The name of the gentleman who procured them, as given to me, was Green.

Q. Who was he?—A. A clerk in the Post-Office Department.

Q. What is his first name?—A. I do not know.

Q. The clerk that leaked?—A. So I am informed; a clerk in the Post-Office Department through whom papers could be obtained.

Q. Who do you say is your authority for saying that?—A. Col. William P. Wood.

Q. He is your authority for saying that Green furnished this information?—A. Not that he furnished it, but that he *could* procure papers.

Q. But *did* he procure them and furnish them to the defendants?—A. Mr. Wood can inform you of that.

Q. But *you* are making the statement now.—A. I have stated generally that papers could be obtained in that way out of the Post Office Department, and that I have understood they were so obtained; but beyond that I have no knowledge.

Q. You got that information entirely from Mr. Wood?—A. Yes, sir.

Q. It is hearsay?—A. Yes, sir.

Q. What means had he of knowing? Was he the agent of the defendants?—A. I don't know that he was.

Q. Do you know that he was employed by the defendants?—A. I don't know that he was; but I have reason to believe that at one time he was in the employment of the star-route defendants.

Q. For the purpose of getting information for their benefit?—A. I don't know how far he was employed for that purpose. I have given you, perhaps, enough.

Q. What is his business?—A. He is a general detective.

Q. A private detective?—A. Yes. He was formerly connected with the United States Government. I simply furnish you what comes to me.

Q. Then if he was employed by the star-route defendants it was in the character of a detective?—A. I presume so—"advisory counsel," as he styles himself.

Q. Is he a lawyer?—A. No, sir; but he is shrewd, doubtless, and able.

The CHAIRMAN. Proceed with your statement.

The WITNESS. Now, it has been said here that at one time the President of the United States, Mr. Garfield, sent for Mr. Woodward to inquire why I had been appointed. You will pardon me for saying that it seems quite remarkable, when my appointment came through the Attorney-General, that Mr. Woodward should have been sent for by the President in relation to it. It may have been so, but it seems very remarkable. But, however that may be, it is unquestionably true that shortly after I obtained my appointment a vigorous effort was made to

have it withdrawn. That effort was made in the interest of star-route defendants and, perhaps, to some extent, in the interest of one or two others. It was said that one of the judges of the supreme court of the District of Columbia called upon the President and represented that I was one of the most disreputable members of the bar. The best answer I can make to that is to say that if the time comes when you can do it, I should be pleased if you would subpoena each of the members of the judiciary of the supreme court of the District of Columbia, and, if necessary, several of the members of the Supreme Court of the United States.

The CHAIRMAN. Our time is getting very short, you know.

The WITNESS. I am aware of that fact. I merely say that you can do that or not as you may determine. I am willing that they shall speak. It may be that some one of the judges did approach the President in the interest of parties who desired it to be done. I was informed by some correspondent whose name I cannot recall that there had been a visit made to the President by one of the judges in relation to that matter. I immediately wrote the President a letter in which I stated to him that I understood that there were vigorous efforts making to displace me, that my appointment had been obtained unsolicited, and that it was a matter of no importance to me whether I retained it or not; also that——

Q. (Interposing.) Have you that letter or that correspondence?—A. I have looked for that correspondence but have not found it. I can, however, give you the substance of it. I also said to the President that from childhood up I had endeavored to live a correct life, and that no human being could place his hand upon a dishonest or a disreputable act in my life, professional or otherwise; that I might be subjected to ordinary abuse and censure arising out of vigorous action in life, and success in my profession, and strong political action, but that beyond that no one could go. I say so to-day.

If I have not referred to all that was testified to relating to me by Mr. Bliss and Mr. Woodward, allow me to say, in a method that may not be misunderstood, that any statement which they have made differing from this and intended to reflect upon my conduct while connected with the star-route cases cannot be otherwise than studied malignant invention and perjury. I can make it no stronger.

Now, let me conclude. If President Garfield had lived, and those star-route cases had been conducted according to the original plan which received his sanction, I have no manner of doubt that there would have been some convictions. When he fell, and Mr. Arthur was made President, the first effort of Mr. Bliss was to obtain control of the cases. I had no acquaintance with President Arthur. Repeatedly did I seek an interview with him through Mr. Bliss, and request that I might be allowed to go with him and present the cases to some extent in outline to President Arthur, as I had done to President Garfield. I never was able to obtain an interview in reference to the cases with President Arthur, apparently because of Mr. Bliss's reluctance that any one should appear before the President other than himself. The next arrangement was the exclusion of every one connected with the case, except Mr. Woodward. The failure of the grand jury to find other indictments was attributable to the mode in which the case was presented.

By Mr. MILLIKEN:

Q. In what respect was President Garfield's plan in regard to the prosecution of those cases changed by the administration of President

Arthur?—A. In this: In the plan of President Garfield there was to be a thorough and full investigation of every case, after submission of it to him and the Attorney-General, and on that plan no case was to be neglected or omitted; every case was to be thoroughly prepared before it was presented to a grand jury. And as each case was to be submitted to the President and Attorney-General, there could be no misrepresentation of it before the grand jury or keeping back facts. The cases of Salisbury & Co. and others, as presented to the grand jury, were confessedly not prepared in that mode or in a manner to procure indictments. That was one of the leading differences in the two plans. There were others. It is true that Mr. Bliss opposed my going before the grand jury, and subsequently went himself, and procured others to go, and placed the statement of the cases, according to his plan, largely in the hands of a mere layman, Mr. Woodward, who, after all, had not the capacity or the power to properly present a case. This fact in part accounts for failures.

The CHAIRMAN. He never was charged with that duty I believe, except as a witness?

The WITNESS. Yes, sir; he was charged with that duty to this extent—not simply as a witness but also to make statements and explanations of papers before the grand jury. He appeared there in more than the capacity of a mere witness. It was only in this form he could appear; for he had no information or knowledge which could render him a competent witness. Now, I think that, by the kindness of the committee, unless you wish to ask me some questions, I have stated all that I wish to state at present.

The CHAIRMAN. I think you have overlooked one more recent matter relating to you that has appeared in testimony here.

The WITNESS. Oh, yes. I am much obliged to you for reminding me of it. So far as that matter is concerned it relates chiefly to my partner, Mr. Cole. Mr. Colman never spoke to me in relation to the case of Dr. Colegrove. I had no acquaintance with Dr. Colegrove whatever, and, during the time that Mr. Colman fixed for that interview between Mr. Cole and myself (of which of course he could have no personal knowledge), I was, I presume, at Elberon. From the time that the President was struck down I was chiefly in New York and at Elberon, so that it would have been physically impossible for such an interview to have occurred at that time. I never received any money from Mr. Cole in connection with the Colegrove case or any other of those cases. I never heard of any. The whole statement, so far as I am concerned, is without any foundation in fact.

Q. The statement only related to you in this, that you were Mr. Cole's partner, which, of course, is true?—A. His partner in civil cases only.

Q. Mr. Colman says that, after talking with Mr. Cole and explaining what he wanted, Mr. Cole went into the room and conferred with you, but what was said there he did not claim to know.—A. Well, if Mr. Cole came into my room as testified to by Mr. Colman, then he did not speak to me on that subject at all. We have some four rooms on one floor, and three or four on another, and Mr. Cole may have come in to obtain a book, as part of the library is in a room that I generally occupy. The statement as it relates to me is entirely untrue, and it may be that, so far as I am concerned, it was inspired by some ill-feeling toward me, for Mr. Colman at one time desired to place a desk and did place a desk in one of the rooms of my office, and—

The CHAIRMAN (interposing). I think that is immaterial.

The WITNESS. Very well; I have stated the facts.

By Mr. MILLIKEN :

Q. Don't you think that Mr. Woodward is one of those industrious, digging men that we sometimes meet, and really a very good man for the details which he furnished in these cases?—A. One of the most inefficient and unfortunate men to select for any position of that kind that could possibly be chosen. Let me tell you why, as you have asked that question. Statements are of no value to a lawyer, as you know, excepting the mere cold facts. Now, the invariable practice of Mr. Woodward is to interweave, with any statement of facts that you may request him to make, his own inferences, deductions, suspicions, and conjectures; so that if he presents you a paper purporting to set forth the facts of a case you will have a much larger proportion of it occupied by his own views, opinions, and conjectures than by facts, and he insists with pertinacity upon weight being given to them. All such statements are of no value to a lawyer, and I declined to receive from Mr. Woodward. They were of no value to me. I speak more decidedly on this point with regard to Mr. Woodward, because in the case of the United States against Hinds, in which I was employed by the defense, and in which Mr. Hinds was acquitted—a case for violation of the postal laws—I had a full opportunity of ascertaining what Mr. Woodward's capacity and ability might be, and it was partly the view I obtained of the capacity of the man in that case that led me to distrust investigations made by him when I was engaged in the star-route cases and to set them aside. I might add other facts.

By the CHAIRMAN :

Q. You have stated that if the prosecution had been continued in the manner agreed upon during President Garfield's administration there would have been some convictions?—A. I have never had any doubt of it.

Q. State in what cases those convictions could have been had, in your judgment?—A. A conviction could have been had in the case in which Mr. Walsh was interested—route No. 40101, from Prescott to Santa Fé. It has been stated here (perhaps by Mr. Bliss) that that conviction depended upon the testimony of a single witness. That is not correct. I made a thorough investigation of that case, and I may say now, without involving any person or reflecting upon any person, that I would have produced evidence of money passing through the hands of different individuals, apart from Mr. Walsh, in connection with that contract, and would have shown interviews between parties involved in the case, in New York and here, and other facts.

Q. Is that the Prescott and Santa Fé route on which Mr. Walsh became a subcontractor?—A. Yes, sir; and in which, let me say, a paper was signed by which increase was recommended—signed by Mr. Woodward, among others, in my absence—a paper which never would have been signed if I had been here. That brings up another fact, Mr. Woodward has said that I destroyed a letter; I never destroyed any letter in that case.

Q. You recommended the remission of the fines?—A. I did not. I had that subject under consideration at one time, as to whether the fines should be remitted or not, but we had not ultimately determined the question when my more active connection with the case ceased.

Q. In what other cases, then, do you think convictions would have been had?—A. The case that was tried might have been so conducted that there would have been a conviction of some of the parties, but it

could not have been done by the complicated and intricate method in which the case was presented.

Q. Did you make any examination of the Salisbury and Parker cases?—

A. A limited examination; and I had at one time an interview with Mr. Salisbury and others in the Post-Office Department, in which I stated with some emphasis to Mr. Salisbury, when he was urged to make an adjustment, that he had better, perhaps, be less better, or that in due time, from the cursory examination I had made, I judged he might be in a more unpleasant position than he was in then.

Q. What matters did he want to have adjusted?—A. At that time, if I remember correctly (and please bear in mind that I may be mistaken about some details at times, for this matter has largely passed out of my memory), there was an attempt to have some adjustment of his accounts on some of his routes.

Q. He was willing to pay up, to settle without the matter going to the grand jury?—A. Yes, sir; and nobody that has ever been willing or able to pay up has ever been indicted, or ever would be.

Q. There is no evidence that anybody did pay up?—A. I said anybody that was apparently willing to pay up. You have not got at the foundation of the case, and never will, perhaps. You have labored well and carefully and industriously, but you have not got to the bottom.

Q. Did you reach the foundation yourself?—A. Not since the case passed out of my hands.

Q. Did you reach it while it was in your hands?—A. To some extent.

Q. Will you reveal some of those foundations that are still concealed?—

A. I have just told you how a conviction could have been had in the Prescott and Santa Fé case.

Q. And from the examination you made you think there could have been a conviction in the Salisbury case?—A. That has been my opinion, but of course it is only an opinion, not fully matured.

By Mr. MILLIKEN:

Q. Do you think the attorneys who acted in these cases failed because of lack of capacity, or because they did not want to bring the defendants to grief?—A. In an interview, which I published immediately after my retirement, I stated that I doubted very much, now that the cases had passed into the hands of Mr. Bliss, whether there ever would be a conviction, and that time would tell whether there would be or not. That was said long ago.

Q. But that does not seem to answer my question at all. Do you think the attorneys in those cases failed because of lack of capacity or because they did not want to bring the defendants to grief?—A. Because of both.

Q. Do you mean to say that the attorneys who prosecuted the cases lacked both brains and heart?—A. No, sir; I mean to say that they lacked, in a case of that magnitude, the methodical power and discriminating ability necessary to gather a case out of the mass of crude material that they had, and to condense it and present it in a reasonably brief time, so that the jury could comprehend it, bear the facts in memory, and arrive at a correct conclusion.

Q. Then you think they did the best they could with the power which they had; in other words, that they used all the ability that they had?—A. Some of them did. You are asking me now for an opinion, and I answer accordingly.

Q. Well, you have been giving opinions all morning.—A. No, sir; not all morning; part of the time. I doubt, and ever have doubted,

whether there was a sincere purpose to convict from January 1, 1882, until the close of the cases, on the part of all the attorneys.

Q. Do you mean to say that all of them lacked sincerity?—A. No, sir; there was one attorney that evidently was anxious to convict; that was Mr. Merrick. There is no question about that at all. The motives that may have controlled Mr. Merrick in that I cannot determine, but the error of Mr. Merrick was really in being too bitter, too censorious, too denunciatory, so that there was a revulsion of public feeling, even on the part of the jurors and others. Of Mr. Merrick's sincerity I have no doubt.

Q. Do you think that his bitterness grew out of his zeal to convict?—A. Yes, sir; out of his zeal; and then, too, out of an additional fact. He is a man who cannot control his partisan feelings as they ought to be controlled. There was too much partisanship underlying his prosecution of Mr. Dorsey and Mr. Kellogg. This he seemed to feel toward the end. You cannot convict a man of previous good character and standing in that way.

Q. Do I understand you to say that you think Mr. Merrick wanted to convict Mr. Dorsey and Mr. Kellogg because they were Republicans?—A. No, sir; but that the fact that they were Republicans intensified, perhaps unconsciously, his feelings, and rendered him more bitter and earnest in his efforts than he otherwise might have been.

By the CHAIRMAN:

Q. Have you any knowledge that any one of the counsel for the Government in this case was corruptly influenced in his action in connection with the prosecution?—A. No; I have no direct knowledge. I have an accumulation of facts, but you would not want them. I have facts and inferences, but I might state a great deal that would not be evidence.

Q. Is it such an accumulation of facts as has been brought out before this committee and through the press?—A. Certainly; and perhaps some additional, but they are not such as I ought to introduce as testimony. I occasionally indulge in *opinions*, especially when called for; but after all they are not evidence.

Q. Did any of these defendants ever approach you, directly or indirectly, with propositions for securing immunity?—A. I answer that question according to the terms in which you put it, and place the emphasis where you will comprehend it. No *defendant* ever approached me.

Q. Did any defendant ever by his counsel or by a friend?—A. No defendant, so far as I know, through a counsel; but I have already stated that I was once approached. I was once approached with a proposition that would involve corruption on my part, and I arranged to explode the whole scheme.

Q. Has that been stated in your previous testimony?—A. I have stated that.

Q. I do not remember that you stated that before.—A. I think I did. I was once approached. I think I so stated. I intended to do so at all events.

Q. Was that the case in which you were to be employed as counsel by —?—A. That was a case where there was a proposition made to me to withdraw from my employment on behalf of the Government for a pecuniary consideration, and have it paid in some mode which would make it impossible to trace it.

Q. I do not think you have explained that to the committee.—A. Well, do not ask me for the name, and I will give you all that occurred.

Q. Give us all that occurred, and we will see about the name after-

wards.—A. Yes, sir. That approach was made by a gentleman who came to my office, and, after one or two interviews, stated that he wished to talk to me on this subject. I arranged an interview and at the same time arranged to have one or two persons in my office, so that it might be ascertained that he had called there. When he called, those persons were present. I finally took him up-stairs in one of my upper rooms, where there is a bed that Mr. Cole generally occupies. I had placed a gentleman under the bed for the purpose of hearing the proposition and what might take place. This man suggested to me, after some time, that he would rather see me at the Portland, and I told him that I would consider that proposition. In the mean time he had ascertained in some manner, as I was afterwards informed, that I had a watch upon him and it would not be safe for him to come to my office, and so the matter ended.

By Mr. MILLIKEN :

Q. Did he discover that there was anybody under the bed?—A. No, sir; he did not. I don't do things in that way.

Q. Did he make his statement while the other party was under the bed?—A. In part. He commenced it.

Q. What stopped him?—A. He said that he would prefer that I would come and talk to him at the Portland, and then he stopped.

By the CHAIRMAN :

Q. Did he disclose the nature of his proposition?—A. His proposition was just what I have stated; that if I would withdraw, or if, or if while I remained in the case, I would so act as to protect some of the defendants, whom he did not name, or "the defendants," a large sum of money could be placed in my hands.

By Mr. MILLIKEN :

Q. Was that man a private citizen?—A. He was a private citizen.

By the CHAIRMAN :

Q. Of ability to pay?—A. I believe he had the ability.

Q. Did you regard him as representing some of the defendants?—A. I could have no other idea but what he came to me representing, from motives friendly or otherwise, some of the defendants.

Q. Was he a lawyer?—A. He was not. He may have made the proposition on his own responsibility.

Q. He was exceedingly anxious to have perfect privacy, was he?—A. Yes, sir.

Q. And he was somewhat mysterious in his movements?—A. Yes, sir. His first statements when he first came into my office were plain enough to me.

Q. What answer, if any, did you give to this tempter?—A. To the invitation to go to the Portland? I said that I would consider whether I should go or not, and possibly I should let him know at some future period. Of course I had no intention of going to the Portland.

Q. Was there any other occasion on which an effort was made to corruptly influence your action while you were Government counsel?—A. No, sir; no one else ever approached me.

By Mr. MILLIKEN :

Q. At what period did this occur?—A. It occurred in the fall of 1881.

By the CHAIRMAN :

Q. Was it before the trial began?—A. Yes, sir; before the trial began. There was an effort, as I have stated heretofore, and this may

have been a part of that effort, to get me to retire from the cases and accept employment on behalf of the defendants.

Q. Mr. Woodward states somewhere in his testimony that you made the statement to the President that Mr. Brady had approached you.—

A. I never made any such statement. He also stated, I remember now, that I had stated to the President, in substance, that Mr. Dorsey should be protected because of his great political influence and the aid he had rendered in the then late campaign. I never made any such statement. No one would suppose that I would venture to make such a statement to the President of the United States. I did say that I regretted that any one who had occupied the high position that Senator Dorsey had occupied was involved in the accusations that were made against him. I regret it now. That is what I stated, and Mr. Woodward may have misunderstood what I did say.

With the permission of the committee I will submit a copy of a letter which I addressed to the Attorney-General in relation to the papers that it was claimed were in my possession:

WASHINGTON, D. C., March 28, 1882.

SIR: Agreeably to my communication of yesterday I herewith transmit you the following papers, viz: 44,154 (Part 2), 44,154 (Part 1), 38,135, 38,140, 34,149, 38,113, 44,140, 38,134 (Part 1), 38,134 (Part 2), 44,155 (Part 2), 34,124, 38,135, 35,051 (Part 2), 33,264, 34,124, 35,013, 35,015, 34,042, 35,015, 34,042, 35,043, 33,259, 35,042, 35,015, 34,042, 35,043, 33,259, 35,042, 35,015, 44,160, 44,119, 38,152, 44,140, 35,051.

These include others than those referred to by Mr. Bliss and are of a different class. None of them came into my hands through Mr. Woodward. The first eleven were exhibits of the report made by Mr. Gibson in the so-called Dorsey cases. The original report I believe passed into the hands of Mr. Bliss at Elberon. They all were received from H. J. Finley, a former clerk in the rooms set aside for the investigation of "the star-route cases."

2. It may be proper for me to add that there *seems* to me to be a *concerted effort* on the part of Mr. Bliss and Woodward to place me in a *false* position in relation to papers in "the star-route cases."

On the 6th of January last Mr. Bliss addressed me a communication requesting me to return "*original*" papers in my possession. In replying on the 9th of that month, I stated, in substance, that I had no such papers, and never had taken any from the Post-Office Department, and that I was unable to conjecture why he made the request, and that I feared that he had received incorrect information. I then took occasion to state that for some time I had been unable to get even a glimpse of "*originals*" or to procure copies, or the return of some copies temporarily obtained from me, and that the usual reply of Mr. Woodward was, "they are in use," "Mr. Bliss has them," or something of this kind.

3. When I received his communication of the 16th instant,, asking me to send him "reports" which Mr. Woodward furnished me in the Dorsey routes, I replied truthfully that I never was furnished any "reports" by Mr. Woodward, in the Dorsey or any other routes. And I added that I had repeatedly requested copies (of "reports"), but was unable to obtain even these except in a *few* instances, and that these were taken away or returned, in part by Mr. Gibson; and that it did not seem to be the first time incorrect information in relation to "star-route papers" had been given him; but that I would carefully examine my papers, and if I found *any*, I would with pleasure send them to him.

4. On the 17th instant I received a communication from Mr. Bliss, stating that it was not "reports," but "abstracts" prepared by Mr. Woodward, and furnished me, he desired, and that *he* remembered to have seen *some* of them in my possession, and that I referred to *others*. This letter was placed on my desk and I did not see it until late in the evening of its date. That night I had a severe attack of sickness—dangerous in its nature—from which I have not yet fully recovered.

(1.) But self-respect, had I been in a condition of health to have responded to Mr. Bliss's letter, would have prevented me from doing so; for it was *not true* that Mr. Woodward had furnished me abstracts, and it was not true that Mr. Bliss had seen such "*abstracts*" in my office. He did see *other and returned papers*, and carried some in person away from my office.

(2.) On the morning of the 18th instant an interview with Mr. Bliss appeared in the Post, of this city, followed by one in the New York Herald, so denunciatory of me, and so incorrect in some of its statements, that I determined that I would hold no further correspondence with *him*; nor have I.

5. I however arranged for a thorough examination of my papers, so that I could transmit any I *might* have, or which should be found, to the Post-Office Department. Before this examination was completed I received a letter from the chief clerk of the Department of Justice requesting a return of papers in my possession.

It affords me pleasure to send *you* the accompanying papers, as well as to comply with any request I can which your sense of justice or right will permit you to make. If I hereafter find even a fragment of a paper in relation to the "star-route cases," I will transmit it to you.

Of no use to me, the returned copies of abstracts I think can be of no use to any one else.

6. I return the copy of Mr. Bliss's letter sent me dated March 24, and addressed to you, and I indulge the hope that in inclosing it to me it was not your intention to indorse its positive falsehoods and base insinuations.

Regretting that from any cause this burden has been added to the arduous labors of your exalted position,

I am, with great respect, &c., yours,

WILLIAM A. COOK.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General of the United States.

WASHINGTON, *June 28, 1884.*

DAVID G. SWAIM sworn and examined.

By the CHAIRMAN:

Question. Please state your age, residence, and occupation.—Answer. I am Judge-Advocate-General of the Army; I was fifty years of age last December.

Q. How long have you been in the Army?—A. Twenty-five years, lacking two or three months.

Q. When were you appointed Judge-Advocate-General?—A. In December, 1880.

Q. Were you acquainted with the late President Garfield?—A. I was, sir.

Q. Were you intimately acquainted with him?—A. I was very intimately acquainted with him.

Q. Were you frequently with him during the time he was President?—A. Yes, sir; daily.

Q. Had you ever any conversation with President Garfield in regard to the appointment of William A. Cook as special counsel in the star-route cases?—A. Yes, sir; in regard to the employment of Mr. William A. Cook and Mr. Gibson. The President asked me one evening, I think, or one day, when we were talking, if I knew who had been employed to investigate the star-route matters. I told him that I had heard. He expressed great surprise and indignation that certain persons of whose character he had heard unfavorable reports had been employed; and I think he named those two as persons who he thought should not be employed in that service, from what he had heard of their character and reputation.

Q. Did he say anything about having learned any fact in reference to Mr. Cook from a judge of the supreme court of the District of Columbia?—A. Well, our conversation was very confidential, and I cannot remember at this time positively whether he told me that he had been so informed or not. I got that impression, however, from the President, or perhaps from seeing him and hearing him converse with different persons that were there.

Q. What impression did you get?—A. The impression that he had been informed of the character of these men.

Q. By whom? Did he mention any one that had informed him?—A. I think not. At least I cannot remember the name of any one being mentioned.

Q. Did he mention the fact that he had been informed by a judge of the supreme court of the District of Columbia that Mr. Cook was not a fit person to be appointed?—A. I cannot say positively as to that, but he may have done so. He spoke generally of his having been informed in regard to the matter.

By Mr. VAN ALSTYNE:

Q. Did he take exception to Mr. Cook's ability or legal knowledge?—A. I don't know that he did; I don't know that he knew anything about that. I think it was Mr. Cook's reputation, perhaps his moral reputation, that the President referred to.

Q. He said that he was a man of questionable character?—A. That was the impression I got from what was said.

Q. Do you know whether President Garfield obtained information directly or indirectly?—A. Directly, I think, sir.

Q. From a judge of the supreme court of the District of Columbia?—A. I would presume that.

By the CHAIRMAN:

Q. Can you state definitely what conversation you had with President Garfield in regard to this appointment?—A. We had many conversations in regard to it. I know we talked generally about the policy of employing men who had any taint resting on their moral character or any question about it, and I think I told him that, in my judgment, such men should be kept away from that investigation, and that it should be left entirely in clean hands, and with men above suspicion. One remark that I remember in some of the conversations was this: He said that it was impressed on him strongly that it took a rogue to catch a rogue; and I recollect that my reply was, "Who will catch that rogue? You must evidently, to be successful, end with an honest investigation by men of character in whom you have confidence, and in whom the public have confidence."

Q. Do you remember an occasion on which an interview was had between the President and Mr. Cook?—A. The President said that he would send for Mr. James and give him his views thoroughly on this subject; that he was in a delicate position; that while he did not feel that it would be proper for him to take this investigation out of the hands of those who had charge of it, yet he would urge the necessity of the employment of the best class of men that could be obtained for the service. He did send for Mr. James, and he had several interviews with him. I think the last interview that I remember was shortly before the assassination. I think Mr. James and Mr. Woodward and Mr. Cook were there.

Q. That, you say, was a short time before the assassination?—A. Yes, sir; I think a very short time. My recollection is that it was but a few days before it.

Q. Did Mr. Cook have any other interview with the President?—A. Not that I know of. He came to the White House, and I had a conversation with him.

Q. When was that?—A. That was some time before this. In that conversation he spoke of attacks and assaults that had been made on his character, and my recollection is that he had with him a pamphlet, or something of that kind, with certificates as to his standing. That is my recollection.

Q. Was President Garfield present?—A. No, sir; he was not.

Q. Did Mr. Cook ask to see the President, or to see you?—A. That I do not remember. My impression is that he asked to see the President, or came there for that purpose, and that I was requested to go out and see him.

Q. Were you at the White House in business hours every day through the greater part of President Garfield's term?—A. I was there a good deal of the time. I would stop there in the morning as I went to my office, and I would stop again in the afternoon as I came back—generally about 1 or 2 o'clock in the afternoon.

Q. If there were any other interviews of Mr. Cook with the President, prior to the one with Mr. James, you have no knowledge of it?—A. I have no knowledge of it. I heard of none.

Q. Was the question as to the removal of Mr. Cook as one of the star-route attorneys discussed between you and the President at any time?—A. Oh, very frequently. Mr. Cook and Mr. Gibson—I associate those two names, for they were spoken of by the President together. He felt very indignant at the employment of those men, but he was restrained by a feeling of delicacy from interfering, or appearing to interfere, in work that he had assigned to others.

Q. What had been the President's relations with Mr. Cook prior to this employment? Had he any acquaintance with him at all?—A. I think not. He never spoke of it.

Q. You may state in this connection what was the position of the President generally with regard to the prosecution of these star-route cases.—A. He was very anxious to have a thorough, searching, and honest investigation, and he was willing to sacrifice any personal feeling that he might have in regard to the employment of men who were personally offensive to him, in order to secure that end. He was also anxious and solicitous that nothing in the nature of personal hostility or anything that looked like persecution should be indulged in.

Q. He desired a legitimate investigation for the purpose of ascertaining the true state of facts?—A. Yes, sir; so that the dishonest parties, whoever they were, should be brought to the surface and punished.

Q. Did that opinion and position of his continue unchanged up to the time of his death, so far as you know?—A. Yes, sir; always.

Q. So far as you know, then—and you knew his sentiments on this subject—he was in earnest in the matter of these prosecutions up to the time of his death?—A. Thoroughly so; and I know of no subject that caused him greater anxiety than that. His desire was that the work should be done fairly and fully. He so expressed himself and so acted, so far as I ever knew.

WASHINGTON, *June 28, 1884.*

H. V. BOYNTON sworn and examined.

By the CHAIRMAN:

Question. Please state your age, residence, and occupation.—Answer. I am forty-nine years of age. I am the Washington correspondent of the Cincinnati Commercial-Gazette.

Q. How long have you resided in Washington?—A. Since December, 1865.

Q. Were you acquainted with the late President Garfield?—A. Yes, sir.

Q. Intimately acquainted with him?—A. I knew him very well. I do not claim to have had an intimate acquaintance with him.

Q. Did you have any conversation with him during his Presidency in regard to the employment of special counsel in the star-route cases?—

A. I had a conversation with him in regard to the employment of Mr. William A. Cook only.

Q. State what that conversation was and when it occurred.—A. It occurred about within a day or two days of the announcement of Mr. Cook's employment by the Government. I should say it was about a month before the President was assassinated.

Q. What was the nature of that conversation?—A. Well, it began by an inquiry on my part as to whether a report which I had heard, that Mr. Cook was to be employed as special counsel in the star-route cases, was true or not.

Q. What did President Garfield say?—A. He said that he knew nothing in reference to Mr. Cook; had no acquaintance with him, and he asked me about him.

Q. Did you give him any information?—A. Well, I gave him my own opinion, sir.

Q. I will not ask you what opinion you gave, but I will ask what steps the President took or what he said in reference to the further employment of Mr. Cook.—A. He asked me to go to the Attorney-General and tell him what I had just said to him, the President, in regard to the matter.

Q. Was that Attorney-General MacVeagh?—A. Yes, sir.

Q. Did you do so?—A. Yes, sir; I did.

Q. Did that end the conversation that you had with the President?—A. No, sir.

Q. What further was said?—A. I went there on that occasion to make an appointment with him for a friend of mine from Cincinnati; this was soon after noon, I should say, and we were to go back after the close of office hours that evening, and when we went back the conversation in regard to this matter was resumed by the President himself.

Q. How long after the first interview was that?—A. It was a few hours; it was after the close of office hours at the White House that day.

Q. State what was said then by the President.—A. The President was very much annoyed at the employment of Mr. Cook; he expressed his opinion very decidedly in reference to it, and said that he had had no knowledge of the man up to the time of his appointment or employment.

Q. Did he express any opinion as to the propriety of Mr. Cook's employment?—A. Yes, sir; he said he thought the employment of Mr. Cook was an outrage upon him.

Q. Did he give any reason?—A. The reasons proceeded upon the theory of the correctness of the conversation that he had had with me in regard to the matter. The conversation consisted chiefly in his asking me about the matter, and my talking with him in regard to it. Of course, my opinion was of no consequence, but that was what led to the expression of opinion on the President's part.

Q. Did you give him any facts in addition to your opinions?—A. I simply talked to him in reference to Mr. Cook's general reputation as an attorney in the District, as I understood it.

Q. Did you have any other conversation with President Garfield at any other time in reference to Mr. Cook?—A. No, sir.

Q. Was there anything further said in this conversation in reference

to the subject—anything that you have not mentioned?—A. Well, Mr. Chairman, there was a great deal said, but much of it was my own talk and the President's remarks in reference to it. I do not suppose that my talk is of any consequence to the committee at all, and it is difficult to dissociate one from the other. There was a very considerable conversation on the subject.

Q. Did you see Attorney-General MacVeagh, as the President suggested?—A. Yes, sir; I went to see him immediately.

Q. What occurred there?—A. I told him that I had come at the President's request to repeat some statements to him that I had made to the President, and thereupon I proceeded to do it.

Q. Did he make any explanation in regard to Mr. Cook's employment?—A. He told me the theory upon which he was employed.

Q. What was that?—A. He said Mr. Cook was employed upon the theory of setting a thief to catch a thief. That is exactly what he said. He said he had had him engaged in a case once before and knew all about him. He stopped me in repeating what had been said at the White House, and said, "I know all about Mr. Cook; I have had him employed in cases before, and he is employed upon the theory of setting a thief to catch a thief."

Q. Did you repeat what the Attorney-General had said to President Garfield?—A. I don't remember whether that particular statement was repeated to him, but I told the President that I had repeated to the Attorney-General what I had previously said to him, and it was in the conversation that arose upon that feature of the case that he said he thought the employment was an outrage upon him.

Q. You do not remember whether you repeated to the President what the Attorney-General had said?—A. I do not. Very likely I did, but I would not like to testify absolutely that I did. It was a very free conversation, and I think it is very likely that I repeated that remark of the Attorney-General.

Q. From the conversations that you had with President Garfield in regard to Mr. Cook, was it your understanding or impression that he would confide the secrets of the star-route prosecution to him or intrust the case in his hands?—A. No, sir; the statement made by the Attorney-General in regard to the employment of Mr. William A. Cook was in substance this: That he was employed rather in a detective capacity than any other, and that it was not expected that he would have any prominent connection with the conduct of the case before the public. Mr. MacVeagh was very decided in regard to that, and said that he would take care of that branch of the case largely himself. In talking with the President in the evening I said to him that Mr. Cook had already risen in open court since I had called earlier in the day, and had asked to have the text of his employment by the Government spread upon the records of the court; at which the President was much astonished, and expressed his astonishment very emphatically.

WASHINGTON, D. C., *June 30, 1884.*

The CHAIRMAN. The committee had an executive session this morning at which the chairman was instructed to inform Mr. Cook that the committee did not think it was necessary for him to appear again as a witness, as he had been already examined in chief, and had also appeared a second time and made a reply to all the evidence theretofore

given affecting him; since which time two witnesses only have been called, General Swaim and General Boynton, who did not, as the committee understand, testify to any new material fact, but were merely called to corroborate another witness who had previously testified. Such being the case, the committee think that under the rules of evidence that branch of the inquiry should be regarded as closed. The chairman was instructed to announce this decision to Mr. Cook, and the chair did announce it to him outside of the committee room, but Mr. Cook preferred that the announcement should be made there formally, so that the official stenographer might make a minute of it.

Mr. COOK. Yes. I cannot oppose the ruling of the committee, but I regard it as unfair and unjust, in view of the new evidence which has been introduced, and which I am prepared to contradict by my own testimony and by that of others. I am prepared to show that the statements that General Boynton made here are unfounded in fact, and that the statements of General Swaim are absolutely false in every essential.

Mr. HEMPILL. Mr. Chairman, as the committee has decided that there is to be no further testimony upon the points in question, I do not think that Mr. Cook should be permitted to make an attack upon these other gentlemen in this way. I do not know either of the gentlemen; I may have seen them the other day, but I do not know them; but this does not seem to me to be proper.

Mr. COOK. I cannot say anything more, Mr. Chairman, except that I shall seek other means of vindication and try to ascertain whether the right of petition is still open in Congress.

The CHAIRMAN. The committee desire to be perfectly fair with you, Mr. Cook, and we believe that we are so. Under the ordinary rules of evidence which prevail in courts of justice, the testimony must be closed at some time, for if an investigation or inquiry were to be conducted by the witnesses coming back again every time anything was testified on the other side that they wished to contradict, the hearing would be endless.

Mr. COOK. Yes; but it is a little remarkable that the committee should close its inquiry on this point just when I am prepared to refute the testimony of these witnesses.

The CHAIRMAN. The witnesses to whom you refer testified to no material fact that was not already in testimony when you last appeared before the committee.

Mr. COOK (ironically). Perhaps the committee had better strike out all my testimony.

WASHINGTON, *June 30, 1884.*

Mr. C. C. COLE reappeared before the committee at his own request, and testified as follows:

I wish to state that I deny most emphatically that I ever had any conversation with C. D. Colman in relation to attempting to prevent an indictment against James B. Colegrove for alleged fraud connected with star-route matters, or that I ever stated to Colman that I could be of advantage to Mr. Colegrove in that direction, for money or otherwise; or that I ever told or intimated to him that I could or would use any supposed influence I might have with Colonel Cook for such a purpose; or that I ever told Colman I had talked with Colonel Cook upon the subject, or had given or was to give him any money received by me

from him (Colman) or from Colegrove. According to my recollection, Colonel Cook was away from Washington during all the time that the late President Garfield was at Elberon, the time fixed by Colman for the alleged interview. I also deny that I ever gave Colonel Cook any money paid me by Colegrove or Colman; or that I ever attempted in any way, directly or indirectly, to prevent an indictment against Colegrove by conversation with Colonel Cook, or in any other way whatever. According to my understanding of the rules of evidence, Mr. Colman is an incompetent witness to give testimony in any tribunal searching for truth.

The CHAIRMAN (interposing). That is a mere matter of argument, Mr. Cole, and had better be omitted.

The WITNESS. But I desire to state a fact in that connection.

The CHAIRMAN. Well, the committee will hear you in relation to any statement that Mr. Colman has made here which concerns you, but not as to new matter, because you are given this hearing now merely to enable you to reply to testimony heretofore given reflecting upon you as an attorney.

The WITNESS. This that I am about to state is substantially in reply to Mr. Coleman. Mr. Colman admitted to me in open court, where he was testifying as a witness, and admitted to the court, that he had been convicted of crimes involving moral turpitude.

The CHAIRMAN. I object to that. That is not proper. It is not a part of your statement at all.

The WITNESS. It is a part of my statement.

The CHAIRMAN. It is not a part of your statement in reply to any matter that has been testified to here.

The WITNESS. It is. I wish to show that Mr. Colman, by his own admission, is a convict and has served in the penitentiary.

The CHAIRMAN. Did you come here to reply to testimony or to make an attack upon a person who has been a witness before the committee? This investigation will never end if we are to proceed in this way.

The WITNESS. I have come here simply to defend myself. When Mr. Colman or any other witness comes before this committee and swears to matters that involve me in transactions that would be dishonorable if the statements were true, I have a right I think—I certainly would have in a court of justice and I think I have a right here—to show that the person who so testifies is an incompetent witness to testify before any tribunal.

The CHAIRMAN. You were asked on your first examination in relation to all that occurred between you and Colman.

The WITNESS. I beg your pardon, Mr. Chairman; you simply asked me one question, whether I had ever said to Colman that I gave money to Colonel Cook which I had received from Mr. Colegrove. That was the only question asked me, and I replied that I had not. Mr. Colman afterwards came upon the stand and testified to matters which are false, and which I now say are false.

Mr. VAN ALSTYNE. If this man Colman was a convict and was offered as a witness and, by reason of his conviction, he was disqualified for giving evidence, that would be good ground upon which to exclude him altogether from testifying; but, he having been received as a witness here, if you now want to impeach him you ought to do it under the general rule, and that, you know as a lawyer, would not permit you to detail instances on his part of misconduct or impropriety, or whatever it might be. You would simply be permitted to state that you knew the character of the man, and perhaps facts communicated to you by him—

self which authorized you to say that he was not a credible witness, not to be believed under oath. That, I think, is the extent to which you would be permitted to go in a court of justice, and therefore I think the chairman is justified in limiting you to that, instead of allowing you go on and make a statement of details in relation to this man's past life.

The CHAIRMAN. So far as the committee is concerned, the whole evidence of Mr. Colman might be struck from the record, and yet the only statement that is material in regard to this transaction as it affects Mr. Cole, was testified to by Mr. Colegrove, and Colegrove's testimony in regard to that was substantially the same as Colman's.

The WITNESS. I beg your pardon, Mr. Chairman.

The CHAIRMAN. In regard to the fact of his payment of money to you for that purpose.

The WITNESS. No, sir; I understand that Mr. Colegrove did not so testify. I have not read his testimony in the record of the committee, but I read it as published in the papers, and I have talked with Mr. Colegrove about it, and he has told me that he testified that the money that he paid me was for services entirely disconnected with star-route matters. I do not know what he did say, but that is the way it was published in the papers, and that is the way he reported it to me; and it looks to me very much as if an effort were being made to involve me in matters with which I have no connection in the world, and to deny me a chance to defend myself.

The CHAIRMAN. You have all the chances that a man could possibly ask. You rely upon your own denial of this alleged fact. It is a question of veracity between two witnesses, and you have made your statement and he has made his.

The WITNESS. Well, but I think I have a right to show in that case that Mr. Colman is a man who would not be believed under oath by those who know him.

The CHAIRMAN. You know what the rule of evidence is on that point—you have to show his reputation for truth and veracity.

The WITNESS. Well then, I will say that I know Mr. Colman's general reputation for truth and veracity among people with whom he has associated, and have known it for the last ten years.

The CHAIRMAN. Where does he live?

The WITNESS. He has lived in both Michigan and West Virginia. I know his reputation in West Virginia. I do not know it in Michigan.

The CHAIRMAN. Well, if you desire to impeach his testimony, you should proceed in the regular manner, which you understand very well.

Mr. VAN ALSTYNE. The witness has qualified himself upon that point. [To the witness.] You say you do know Colman's general reputation for truth and veracity?

The WITNESS. I do.

Mr. VAN ALSTYNE. Amongst people in the community where he has lived?

The WITNESS. In the community where he has lived; and I know it to be exceedingly bad; and I know him to be a man who would not be believed under oath.

The CHAIRMAN. You know very well that in a court of justice, unless the party put his character in evidence, you could not go beyond that.

The WITNESS. I disagree entirely with the Chairman in regard to the rule of evidence. I think it is competent where a person has been convicted of a felony, to prove that fact as tending to impeach his credibility.

The CHAIRMAN. But you can only prove such a conviction by the record of the court.

The WITNESS. Well, I was going on to say that the record I refer to is on file in the War Department here. I have not had time to procure a copy of it, but it is within reach of the committee.

The CHAIRMAN. And it also appears of record that President Johnson set aside that conviction?

The WITNESS. No, I beg your pardon. President Johnson made an order in relation to it which he had no authority in the world to make, and the Secretary of War and the General of the Army both, during the present administration, have declined to promulgate the order.

The CHAIRMAN. But the President did make the order?

The WITNESS. He did make the order.

The CHAIRMAN. Is there anything further that you desire to say?

The WITNESS. I wish to state that my employment by Mr. Colegrove had no relation to his alleged complicity in the star-route frauds. I did not even know at the time, nor for some time afterwards, that it was claimed that he was involved in them. The business I did for him then and have done for him since had no relation whatever to these matters, and was fully worth all Colegrove has ever paid me, and more, and I am still attending to unsettled business for him. Colonel Cook received no part of the money which Mr. Colegrove paid me for the business I did for him. Colman was in the habit of hanging around our office, and we had to notify him to remain away; for which he became enraged at Colonel Cook and myself both. A few months ago I got some action of a court in West Virginia——

The CHAIRMAN (interposing). I do not think that is proper.

The WITNESS. I want to show Mr. Colman's animus towards me. A few months ago I got some orders made in a case in West Virginia in which Colman claims to be interested, which were very much against his interest, at which he became very much enraged against me, and sent me word through friends that if I did not let up on him he would injure me in some way. I did not let up, and his testimony here is the sequel. Mr. Colman, I believe, is the only man who has testified to anything that attempts to reflect upon me, Mr. Colegrove having already testified, as I understand, that his employment of me had no relation whatever to any star-route matters, so far as any conversation or understanding he ever had with me is concerned.

The CHAIRMAN. I do not think he made that statement.

The WITNESS. Well, I understand that he did. At any rate, what I say is (and it is what I understand Mr. Colegrove here said), that in all his conversations with me and all his employment of me he never stated or intimated that he expected me to do anything in his star-route matters, or sought to employ me for that purpose. That is my statement, and Mr. Colegrove's testimony, as I have read it in the papers, corroborates that statement.

WASHINGTON, *June 30, 1884.*

WILLIAM P. WOOD sworn and examined.

By the CHAIRMAN:

Question. Mr. William A. Cook testified before this committee a few days ago that he was authorized by you to state that a clerk in the Post-Office Department by the name of Green was, or had been, in a

position to procure papers from the Department for the purpose of giving them to the defense in the star-route cases. Do you know anything about that?—Answer. Yes, sir.

Q. Please state what you know about it.—A. I would like to preface my remarks with such explanatory matters as would neither do injustice to Mr. Green nor Mr. Cook, and, if that is conceded, I will state my case; or I can do that subsequently.

Q. Just state the facts in your own way.—A. I was satisfied that in the proceedings in the star-route cases Mr. Woodward was acting the scoundrel, and I was satisfied that he was putting through fraudulent claims. I wrote to the foreman of the grand jury, to Judge Wylie, and to Mr. Howe a statement of the facts, giving the numbers of the routes and the facts as I understood them, and was desirous of going before the grand jury at the time. My efforts failed. I called the attention of General Brady to the matter, and he referred me to the son-in-law of Postmaster-General Howe. I called upon that gentleman, and stated the facts in the case, as I presumed them to be.

Q. Do you refer to Mr. Totten?—A. Yes, sir; I refer to Mr. Totten. He was desirous of having some information that was reliable. I told him that in all probability I could get it, but that I could not commit any breach of confidence with the party I had in view, for I would have to get my information from the Post-Office Department. After some preliminary arrangements Mr. Totten agreed that the clerk should not be disturbed, and it was arranged that the original jacket in which the papers belonged should be brought to Mr. Totten's office and exhibited, for the purpose of stopping these frauds in the Department, or these rascally transactions that I charged Mr. Woodward with having instigated, and which were going on. I specified two matters. One was the money that was paid to John A. Walsh, of which I gave you, Mr. Chairman, a private memorandum at an early stage of these proceedings. The other was in a case that I wrote to Mr. Cook about. I advised Mr. Cook not to have anything to do with the Government, but Mr. Gibson persuaded him into it, and when he did start in I went to him to post him as to the rascally proceedings going on in the Department. I called his attention to my communication, and it resulted in a hearing being had by Mr. Bliss, and I produced evidence of forgery and perjury for the purpose of putting these things through that Mr. Woodward had recommended, and which I stopped simply by the production of the evidence of forgery and perjury, copies of which evidence I have in my pocket, if you desire to see them.

Q. Do you refer to the papers that Green was to furnish?—A. Mr. Green did furnish them; he brought them to Mr. Totten's office and showed the facts and then took the papers back.

Q. What position did Green hold in the Department?—A. He was chief clerk in—I don't know exactly in what division, but it was one that had custody of these papers.

Q. State what Green did.—A. After some preliminary arrangements, he brought the papers to Mr. Totten's office and exhibited to him the evidences of the fraud.

Q. That was done in the interest of the Government, was it?—A. Certainly, sir; in the interest of the Government.

Q. It was not for the purpose of giving information to the defendants as to what evidence was on file in the Department?—A. I do not know that that was the prime motive. I was in the interest of the defense and against the Government.

Q. For whom was Mr. Totten appearing? Whom did he represent?—
A. I think he represented the defense.

Q. Do you know which of the defendants?—A. I cannot say that I do, but I understood that it was all the defendants—that he had a general interest in them.

Q. Were these papers that Green furnished to Mr. Totten matters which would apprise the defendants of any movements that were going on in the Department to procure their conviction?—A. I am under the impression that I produced the evidence for the purpose of satisfying the Government officials that the parties who were proceeding against the defendants were not doing it in good faith, and that they were resorting to means that were neither proper nor honorable.

Q. But the question the committee are interested in is, whether any of the records of the Government that were supposed to be secret and for the benefit only of the prosecution got into the hand of the defendants?—A. I believe Mr. J. W. Green to be an honorable gentleman. He would not be guilty of any act which would deceive his employers, or of any treachery to those who employed him. It was simply to post the Government as to the bad manner of proceeding in the Department, and he did that under the pledge of secrecy from Mr. Totten and myself, and he was subsequently removed because he did that service.

Q. Was he acting in the interest of the Government, or in the interest of the defendants in furnishing papers?—A. I think he was acting friendly toward me; it was on the score of friendship toward me.

Q. Whom did you represent?—A. I do not think that Mr. Green was aware that I was in the employ of the defendants. I think he was under the impression that I was endeavoring to expose the scoundrelism in the Department.

Q. Whom did you represent?—A. I represented no one but W. P. Wood.

Q. Then I misunderstood you awhile ago, when I thought you said you represented some of the defendants?—A. Mr. Green did not know I was in the interest of the defendants and opposed to Bliss.

Q. What defendants?—A. The star-route defendants.

Q. The defendants in the Brady-Dorsey case and others?—A. No; I cannot say that. There were very few of them I conversed with interested; my interest was in behalf of General Brady.

Q. State what kind of papers they were that Green furnished to Mr. Totten?—A. The star-route contracts. I can give you the numbers by referring to my papers. I am confining myself now to this one case. Here (producing it) is a copy of a letter that I wrote to Mr. Howe, dated Washington, May 18, 1882.

Q. Is that one of the papers that Mr. Green furnished Mr. Totten?—
A. No, sir; this is my letter to Postmaster General Howe.

Q. What papers did Green furnish to Totten?—A. He furnished the papers in that case and gave such explanation as they desired to have. They were not familiar with the facts, and he gave them all the information that was requisite—information, as I imagine, perfectly proper, perfectly correct, such as any citizen should have a right to get, only that I knew the way to get it, and desired that Mr. Totten should be satisfied that I was making a correct statement. It was a plain steal of the Government funds.

Q. Then, as I understand you, Mr. Green simply brought the original jacket to Mr. Totten containing the official documents upon which you based the charge that the remission in that case ought not to have been made? He brought all those papers to Mr. Totten?—A. No, sir; I do

not think he did. Finding that the papers were not in the jacket, I called Mr. Totten's attention to the fact, and he could not think it was possible; so I brought Mr. Green to show him the empty jacket, and to show that the papers were withheld for the purpose of enabling Walsh to get this money.

Q. Then Green simply brought the empty jacket?—A. It was not exactly empty. There was something in it. He also gave some additional information that they requested. Nothing improper. I believe Mr. Green to be an honorable gentleman.

Q. Those were all the papers that Green furnished?—A. That I do not recollect now. The other case was one of fraud and perjury concocted here in Washington. I communicated it to Judge Wylie and wanted to be allowed to go before the grand jury, and I prevented that fraud from being consummated. Mr. Bliss met me in Mr. Cook's office. I produced the record there. I kept the record straight, so as to convince the most skeptical.

Q. Will you state again now just exactly what it was that Green did in the way of furnishing papers?—A. I requested Mr. Green to call upon Mr. Totten, the son-in-law of the Postmaster-General, to verify the statements I had been making to him, and to furnish such evidence as would convince Mr. Howe, because I wanted to go before the grand jury and make the statement in both cases.

Q. Did you go to Mr. Howe or to Mr. Totten?—A. I went to Mr. Totten, and I wrote to Judge Wylie and received his answer. I wrote also to Colonel Cook and received his answer. I was simply fighting the combination that was in the Post-Office Department.

Q. You desired simply to protect the interests of the Government in regard to these allowances, which you believed to be unjust?—A. I do not know that that was my object altogether. I wanted to expose the system. I did not ask anything for it; I agreed to do it gratuitously. Sometimes I charge, but generally I get humbugged by officials.

Q. But your desire in this matter was to prevent the allowance of claims which you believed to be unjust and fraudulent?—A. Yes, sir; if you will recollect, Mr. Chairman, I furnished you a memorandum of that matter at an early stage in your proceedings, which you had an opportunity to digest, and to call upon me for further information or explanation of, if you desired. If you had called upon me for it I would have given it. I do not want to make any Democratic campaign thunder, as I am not a Democrat.

Q. You desired to have the Government officials indicted?—A. Yes, sir.

Q. And you so wrote to Judge Wylie?—A. Yes, sir; and I have got his response. I wrote, also, to the foreman of the jury, Mr. Mitchell.

Q. What did Judge Wylie say?—A. Here is a response [reading]:

WASHINGTON, *May 19, 1882.*

DEAR SIR: Your note dated the 17th inst., with a copy of your communication to the Postmaster-General of same date, has been handed to me. I think you had better await the decision of the Postmaster-General in the matter, and advise also with District-Attorney Corkhill before going to the grand jury.

Very respectfully, &c.,

A. WYLIE.

W. P. WOOD, Esq.

Q. You may state in what respect that allowance to Mr. Walsh was unauthorized by law. Was it a remission?—A. I have written upon that subject, and some of what I have written upon it has been published, and some not. Some of the publications that have been made in the

Sun are mine. I have a pretty long one there which, I think, explains the subject, and I could give you that.

Q. I prefer that you should explain it now, briefly.—A. It would be impossible to do the subject justice briefly. It is a fraud. There is nothing honest in it. It is just as much of a fraud as that matter of the mail-bag fastener that I desired to call the attention of Mr. James to in connection with that carpet-bagger, Sheridan, that was put upon the people of Washington by Hayes. They paid some \$28,000 there, and they did not make any investigation, but it was just as great a steal as that matter of Walsh. They would not do anything about it but cover it up. I exposed it, and they hate me a great deal worse than they do any of the Democracy.

Q. Do you want to make any further statement about this matter?—

A. I am satisfied that that Walsh matter was a fraud, and I can establish it whenever the committee desire to have it done.

Q. This committee has not been engaged in re-trying the star-route cases, or undertaking to determine whether the parties there charged were guilty or not. We have merely been endeavoring to ascertain whether the officers charged with the prosecution did their duty?—A. Well, I have expressed my opinion about Mr. Bliss.

Q. Have you any further facts that you desire to state?

The witness was proceeding, in reply to this question, to read a paper in which he spoke of Post-Office Inspector Woodward as a "creature," and stated that he (Woodward) and Mr. Lyman had recommended the allowance of what was known as the Jennings claim.

The CHAIRMAN (interposing). Have you any further facts? Confine your statement to facts.

The WITNESS. I believe these to be facts. If they are not, let them be thrown out.

Mr. WOODWARD (to the witness). Did I ever recommend the payment of that claim, or did Mr. Lyman ever recommend it?

The WITNESS. You did—Walsh's claim.

By the CHAIRMAN:

Q. Did Mr. Woodward recommend the payment of *that* claim?—A. I understand that he did.

Q. Did Mr. Woodward or Mr. Lyman, either or both, recommend the payment of that Jennings claim?—A. I believe they did, for the reason that Mr. Bliss came to Colonel Cook's office and I furnished him the papers, and he said that he had already stopped it. That was in the office, in Mr. Cook's presence, and I base my statement on the strength of that.

Q. You base your statement on a conversation that you had with Colonel Cook?—A. No; but in part on the conversation I had with Colonel Bliss in Mr. Cook's office. Apart from that I know that Mr. Woodward did sign a recommendation of the Walsh matter, and that Mr. Cook did not, when I requested him not to do it, and I know that Lilley called upon me and stated that he had "had Woodward all right," and that I had prevented him getting the Jennings matter through. I believe that Woodward and Lyman and the rest of them would have put that claim through, and that, had I not put in a protest, it would have been paid. No one else made a protest against that payment but myself. Nobody else interfered with it, and it would have been paid, as other frauds have been paid.

Q. What claim do you refer to now?—A. The Walsh claim.

Q. Was that a claim for remission?—A. The Government had re-

couped, so that they would not have lost anything. Walsh was paid without rendering any service to the Government. Favoritism put it through.

Q. There were some three or four claims that Walsh had against the Government. To which claim do you refer?—A. I refer to the lump, some \$24,000 or \$25,000, that he got when he ought not to have got 25 cents, and would not have got it if he had not promised what he did. This Jennings claim would have gone through in the same way, if I had not prevented it. I challenge the production of any paper showing anything done towards stopping that Jennings matter outside of what I did. I will give you the affidavit of one of the parties who was interested in the fraud, and he aided in the perjury. [The witness here handed a paper to the chairman.]

The CHAIRMAN (after examining the paper). This is simply an affidavit stating what you did in reference to the case?—A. Yes, sir; and there are several others.

The CHAIRMAN. I think this paper is immaterial so far as this committee is concerned.

The WITNESS. All right; I just wanted to show you the proceedings that I took in the matter.

Q. Is there anything further that you want to state?—A. Nothing particular.

Q. In the first part of our investigation there was some evidence before the committee to the effect that you had been authorized by some of the star-route defendants to employ Colonel Cook in their behalf. Will you state what your recollection of that matter is?—A. I called on Colonel Cook at an early stage in the prosecution, and advised him not to accept any position under the Government, saying that he would get a larger fee from the defendants, and for him not to accept Government employment. Mr. Gibson was running to his office at that time to secure him as counsel for the Government, and I advised him not to accept it; I told him that Gibson was in the interest of the Democratic party, that he had done everything he could to hound Garfield in this DeGolyer paving matter, when Colonel Cook was counsel for the corporation of Washington; and also that it would be impolitic for the colonel to go into the matter for the Government—that it would be a fizzle, and for him not to get into it. I thought I had advised Colonel Cook sufficiently to keep him out of the Government employ, but I went off to New York on some business, and when I came back Mr. Gibson had trotted Mr. Cook up to the White House, or they had both been up to the White House, I do not know the details of what happened there, but Colonel Cook was no longer accessible to me, so far as star-route matters were concerned. But I will say this, that he never aided me, directly or indirectly, in any manner, or betrayed the Government or any interest connected therewith. I believe him to be an honorable gentleman. He has been such in all my transactions with him. I furnished this information that I have been speaking about in the interest of the Government, as well as to show the surroundings of the parties engaged in the prosecution.

Q. Were you authorized by any of the defendants to retain Colonel Cook in their behalf?—A. I think that I recommended it myself, that it was left entirely to my judgment, and, had he been accessible to the parties, negotiations in the matter would have commenced. I have had some experience with counsel, and I imagine that he is without a peer in Washington.

Q. Was there a sum that he could have as compensation mentioned by you?—A. Yes, sir; I offered him \$10,000.

Q. And he told you that he was employed for the Government?—A. No, sir. He did not then, but subsequently he did, when I came back to renew the proposition and to increase the offer, after I had gone to New York to see certain parties and to attend to some other business.

Mr. COOK (to the witness). Please state what the proposed increase was.—A. Well, I was directed to make it \$5,000 more, or \$10,000, if successful.

Here is a paper signed by Gibson and Woodward in relation to the Walsh payment, and I will say that I do not think the other route (Jennings) would have been entertained had it not had similar approval.

The CHAIRMAN. All the facts about the remission of the fines in that case were laid before the committee, and I supposed there was no dispute as to the facts.

The WITNESS. Well, I will say that I do not know this positively, but I believe it, and was so informed by inside parties in the Department.

The CHAIRMAN. I think that every material fact in relation to that matter was stated by Mr. Woodward and Mr. Walsh.

The WITNESS. That may be. I have not kept the run of the testimony.

Mr. WOODWARD. On top of that payment, Mr. Cook and Mr. Gibson united in a recommendation that Walsh should be given a month's extra pay. Mr. Lyman refused to agree to that. Mr. Cook then sent me to get the paper that he had signed making the recommendation, and I got it and gave it to him and he tore it up.

Mr. COOK. Now, Mr. Chairman, I wish to say that that is a deliberate, studied lie.

Mr. WOODWARD. Well, Mr. Chairman, I say it is the truth, and Mr. Lyman knows it. [To Mr. Cook.] Did you not write such a letter?

Mr. COOK. That is a deliberate, studied falsehood.

Mr. WOODWARD. I have heard a good many such statements from you here.

Mr. COOK. Yes; and I propose to prove *your* character outside of this committee. There is another tribunal before which you will appear in due time.

Mr. WOODWARD. Do you say that you never saw or wrote such a letter?

Mr. COOK. I will attend to your case in due time.

The WITNESS. Well, I will simply add that no matter by whom signed or recommended, whether by Colonel Cook, or by George Bliss, or by Woodward, or anybody else, it was an infamous fraud.

The CHAIRMAN. You mean the remission of the fines and the allowance of the extra month's pay?

The WITNESS. Yes; the whole affair. All the money given him from the Government was a steal, the whole amount, \$24,000 or \$25,000. I should not be the least surprised if there were lots of papers torn up. I do not know whether Colonel Cook tore them up, but I should suppose Woodward was an artist at that business.

Adjourned.

WASHINGTON, D. C., July 1, 1884.

WILLIAM PITT KELLOGG appeared before the committee at his own request, and testified as follows:

Mr. CHAIRMAN: I labor under considerable disadvantage in making a statement this morning, from the fact that I have not been able to

procure the last testimony of Mr. Bliss, and there is much in that testimony to which I desire to call the attention of the committee, and also because I have not had an opportunity to refresh my mind with regard to certain facts. After the intimation that I have received from you as chairman of the committee, I do not propose to go into this matter at any great length at the present time. I have made no sort of preparation and taken no notes whatever, and have only partially read the evidence from time to time as I have been able to get hold of it in installments. I have noticed, however, that much has crept into your record reflecting upon me, and it is with regard to this testimony that I desire now to submit a few remarks. I shall endeavor to be as brief as possible, because you have intimated to me that the committee desire to get through immediately and adjourn.

The fact that I have been charged with complicity in improper transactions in connection with star-route matters is, of course, well known. The nature of the indictment the committee is doubtless well acquainted with, and I may be pardoned for referring here to the fact that it is an indictment predicated upon the statute of 1782, prohibiting members of Congress from receiving compensation for services rendered in connection with any of the departments of the Government, or in matters where the United States is a party. I notice with regret that a number of witnesses, especially some of the attorneys for the prosecution, have dwelt with great emphasis upon that indictment as though it charged me with an offense involving bribery. I believe there is no charge anywhere—certainly there is none in the indictment—that there was any improper or undue action on my part unless it be receiving compensation for influence as alleged, or for services rendered in procuring the contract, or the two contracts, involved. There is no charge anywhere that I paid Mr. Brady anything, unless it be the statement of Mr. Walsh that I told him when I delivered certain drafts to him that I desired him to set one half of the proceeds to the credit of Mr. Brady and one-half to my credit; which statement I utterly deny.

The first question is as to whether I rendered any service or whether I promised Mr. Price to render any service in connection with the procuring of these two contracts. The two routes referred to are, one in Northern Louisiana, from Monroe to Shreveport, and the other from San Antonio to Corpus Christi. If Mr. Brady is called upon to testify here and swears to the truth, he must swear, and I believe will swear, that I never approached him in any manner, directly or indirectly, in regard to either of those two routes. I state here that I never did approach Mr. Brady, and never did attempt to influence him in any manner, directly or indirectly, in regard to the expedition of either of those two routes. The principal expedition, I am told, was upon the San Antonio and Corpus Christi route. Mr. Blackmar, of the Post-Office Department, is here to produce certain papers relating to that route, and the jacket which he has handed me contains a statement (usually called a "brief," I believe) of the merits of the case, together with the names of the persons recommending the expedition. Upon the back of this statement are the words, "Do it from August—Brady." Then here is the order:

From August 1, 1879, expedite service so as to require it to be performed by a schedule of departures and arrivals not to exceed 29½ hours' running time each way.

Then follow the usual provisions. This is signed French, and, as I have said, the indorsement is, "Do it from August—Brady." Here [showing it

to the Chairman] is the jacket. The jacket refers to a letter which I will read :

[Maxey, Lightfoot & Denton, Attorneys and Counsellors at Law.]

PARIS, TEX., *July 5, 1879.*

DEAR GENERAL: I beg to call your attention to the mail service between San Antonio and Brownsville, Texas. If this service can be expedited I shall be grateful. San Antonio is the Army headquarters of the Department of Texas. Brownsville is an important point on the Lower Rio Grande, at the most important American town on our Rio Grande frontier, connected with the points along the river. It is in the interest of peace and quiet on the border to have as speedy communication between San Antonio and these points as circumstances will admit. To these reasons, of course, the usual commercial reasons may be added.

Most respectfully, yours,

S. B. MAXEY,
United States Senator, Texas.

Hon. THOMAS J. BRADY,
Second Assistant Postmaster-General, Washington, D. C.

This letter is dated July 5, 1879, and the filing was on July 9, 1879. Accompanying this communication is the following :

WILLARD'S HOTEL, WASHINGTON, D. C., *July 8, 1879.*

DEAR SIR: Please let me know if you will act upon applications on file for temporary service, San Antonio and Corpus Christi route.

Yours, respectfully,

J. B. PRICE.

Gen. THOMAS J. BRADY,
Second Assistant Postmaster-General.

That letter was filed July 9. I find also the following:

WASHINGTON, D. C., *July 15, 1879.*

Statement of contractor on route No. 30140, San Antonio to Corpus Christi, Texas, as to difference in cost of operating said route under existing schedule and proposed expedited schedule:

Under present schedule of 40 hours, 150 miles, six times a week and back, can be performed with 20 animals and 8 men; but should speed be increased so as to run the route in 29½ hours, it would take 74 animals and 23 men.

J. B. PRICE, *Contractor.*

WASHINGTON, D. C.: Personally appeared before me this 15th day of July, 1879, J. B. Price, who signed the foregoing statement, and, being duly sworn according to law, says upon oath that said statement is true to the best of his knowledge and belief.

[SEAL.]

H. B. ZEVELY,
Notary Public.

Lest I forget it, I desire to say at this point that I understand there is no question made as to the propriety of that expedition, and I think it will be conceded that the propriety of it is not questioned. I mention that in justice to Senator Maxey. The route runs through a densely populated country, and the demands and requirements of the people, commercially and otherwise, are such as to justify the expedition. So much for that. The other expedition in question was upon route 30183, from Monroe to Shreveport. Monroe is the terminus of the railroad running from Vicksburg, or from a point opposite Vicksburg called Delta, 90 miles, I think, into the interior of North Louisiana. There is a railroad being rapidly built now between Monroe and Shreveport. It has been projected for 15 or 20 years, and it was partially graded fifteen years ago. The distance between Monroe and Shreveport, I think, is about 165 or 170 miles. Shreveport is the second city in Louisiana, the eastern terminus of the Texas Pacific Railroad, and at the time of this expedition the Texas Pacific road was completed, of course, and about

that time or soon after, connected by way of Fort Yuma, on the Rio Colorado, with the coast line running to San Francisco. Here is the application of Mr. Price for that expedition :

JEFFERSON CITY, MO., June 25, 1870.

DEAR SIR: The present schedule time on route 30183 from Monroe to Shreveport, La., is forty hours. The press and people are anxious to have the service expedited, at least during the summer and fall months when low water in the Red and Ouachita rivers interrupts navigation, much to the prejudice of commerce. This route is the most important land route in Louisiana. It distributes double the mail matter of any land route in the State. It connects important business cities and supplies a large population of industrious and intelligent people. By reducing the running time eleven hours from May to January each year, which would cover the low-water season, the citizens supplied by this route would receive their mails from fifteen to twenty hours sooner than they otherwise would, by reason of closer connections with the railroad at Monroe and Shreveport. I therefore propose to convey mails in twenty-nine hours each way, at the general *pro rata* increase of pay allowed by the Department in similar cases, for the eight months embraced between May and January.

Respectfully, your obedient servant,

J. B. PRICE.

Hon. T. J. BRADY,
Second Assistant Postmaster-General.

Below this communication is the following indorsement :

I fully indorse this application.

J. B. ELAM,
M. C. Fourth District.

This district is the one through which, in part, this route runs, and Shreveport is the principal town in the district, which was then represented by Mr. Elam. The indorsement is signed also by "E. W. Robertson, sixth district." Mr. Robertson represented the district just below, in which Baton Rouge is situated, and which is now represented by Mr. Lewis, and the distribution of the mails for all that district of country from the northwest, from up in the neighborhood of Shreveport, and from Arkansas and Western Texas is, of course, by way of Shreveport. I mention this to explain the interest taken in that route by Mr. Robertson. Below the indorsement signed by these two gentlemen is another, and I ask the committee to notice the manner in which my signature appears here :

I concur in this petition.

W. P. KELLOGG.

You will see (exhibiting the paper) that my name appears down in the corner, and that it is written carelessly, as I oftentimes indorse papers. Mr. Price says in his testimony that he thinks he came to me after having gone to Mr. Elam and Mr. Robertson and got me to add my indorsement. My indorsement, you will notice, is in the words, "I concur in the above." Now, I suppose I write that from twenty to thirty times a month upon different papers—sometimes every day. Sometimes I step into a store to borrow a pen to write it, sometimes I write it in the corridor of the capitol, sometimes on my table, and sometimes at my desk. At that time I was doing a great deal of indorsing of applications, perhaps quite as much, or more, than now, because our offices down there are pretty well settled now. The civil service rules were not in force at that time, and everybody seeking an appointment as a clerk there would come to me for an indorsement, and I was constantly writing indorsements, and my usual manner of indorsing such a paper, especially if I had no particular interest in the matter, was, "I concur in this" petition, or application, or whatever it might be.

Now, I want to say to the committee that they will not find anywhere in the evidence—*anywhere*—the slightest proof that I rendered any service whatever in connection with the procurement of this expedition except writing this simple indorsement. Some gentleman here—I think it was Mr. Woodward, or perhaps it was Mr. Ker—said that Mr. Kellogg did render service in connection with this matter because he indorsed the application. I find in the testimony of Mr. Bliss, on page 209 of your record, these questions and answers:

Q. And he (Mr. Walsh) stated before the grand jury that he had made money payments to Kellogg?—A. Yes, sir.

Q. And it was on account of his influence?—A. No, sir; Mr. Walsh did not know anything about that. That is just where the break came.

Mr. Bliss, certainly, if not another of the attorneys connected with the prosecution, has said repeatedly that there was a missing link in the evidence in this case; that they never could prove any service rendered by me; and there is a member of the House upon the Democratic side who heard Mr. Bliss say that he thought it would be utterly impossible to make a case against me, for the reason, if for no other, that there was this missing link, and if the committee care to know the name of that member I will give it to them. You will find that ground taken repeatedly by Mr. Bliss, I believe, and perhaps by some others, in the course of the history of this case.

Now, I will call the attention of the committee to what Mr. Price says, and I will give it in the very worst form, for I want to be perfectly candid in this matter. As I gather from the testimony of Mr. Woodward, Mr. Merrick, and Mr. Bliss, Mr. Price, who was indicted in June, 1882, made an affidavit under these circumstances: Some months after he had been indicted his son went naturally enough to Mr. Merrick, at New York. Some of my Republican friends thought it a significant fact that Mr. Price's son is a member of the Democratic committee in Louisiana, from my district, but I do not attach any great importance to that. Mr. Price's son goes to New York, to Mr. Merrick, and has a conference with him upon this subject, as Mr. Merrick himself states. Mr. Price's son says to Mr. Merrick, "I want my father to get out from under this prosecution." "Well," says Mr. Merrick, "if you will make a statement against Kellogg"—that is just about the substance of it, as the committee will see from the testimony that has been given here—"if you will make a statement against Kellogg, I will agree to give your father immunity." "But," says young Mr. Price, "I want to be certain of it." "Well," says Mr. Merrick, "don't talk to me any more about it now; go away and send me an attorney." The attorney comes. I am not going to trouble this committee about that attorney, though I think I know who he was, and precisely what occurred. It is enough for me to say now that the attorney comes on; Mr. Merrick, or some one else, writes out a statement which they want Mr. Price to swear to; whereupon, to use the expression of one of the attorneys, they put Price into Woodward's hands in order that he might set his pumps to work." Now, let us see what Woodward says about Price's affidavit. I have not got Mr. Merrick's testimony here, so I speak of it from the report in the papers, and from what I have been told; but here is what Mr. Woodward says on this subject:

Well, in the year 1882, I went to Connecticut to spend the holidays, and, perhaps the day after Christmas, I was telegraphed to to come back immediately to Washington. I came here and was told that a controversy had arisen between the counsel respecting the acceptance of Mr. James B. Price as a Government witness, and that the matter had, in a certain sense, been referred to me. I was handed a statement, unsigned and unsworn to, which purported to give what Mr. Price was willing to

testify to, and was told to see him and obtain more explicit information. I spent two days with Price, taking down his statements. He put them in my hands in trust, to be returned to him in case he was not accepted as a witness. I called on the Attorney-General and read this statement. He asked me more or less questions about the relations of the testimony of Price and Walsh to each other and to the case. I explained everything as well as I could, and there seemed to be no doubt in his mind with regard to the propriety, and, in fact, the necessity of accepting Price as a witness.

This statement, which was handed to Mr. Woodward "unsigned and unsworn to," the committee will find, by turning to the evidence of Mr. Merrick and others, proved to be so unsatisfactory that it was handed back with the intimation that Price must make his statement more satisfactory and significant. Now, I have here the affidavit of Mr. Price, for it crept into the public prints, as pretty much everything of this kind did. I do not care to go into that question, but if I were to do so it would be quite interesting to show the committee how everything relating to my case was promptly made public, so that even when Price testified before the grand jury the Associated Press was furnished with a statement of his testimony direct from the grand jury room by some one, I believe, connected with the prosecution, who furnished what purported to be the evidence given against me—not the evidence as it was really given. In the first affidavit that was published, or that fell under my observation, there was a curious and significant omission. There was no statement that Price had delivered to me the petition and application for these expeditions. That was not in the first affidavit that I saw. I do not know whether the copy I saw was correct or not, but there was no such statement in it. In the next affidavit, however, were the words, "Kellogg said he would see Second Assistant Postmaster-General Brady and learn of him what could be done." I hold in my hand the affidavit given to the Associated Press as it appeared in the *National Republican* of this city of March 28, 1883, the day after Price appeared before the grand jury, and in that statement of the affidavit that Price had made, which was, as they stated, in the hands of the Government attorneys, and of which they give what purported to be an abstract "obtained from what are believed to be trustworthy sources," this occurs:

Affiant then applied in person to William Pitt Kellogg, whom he had known for many years, saying to him, "If you succeed in increasing my pay on this route I will give you \$20,000." Kellogg said he would see Second Assistant Postmaster-General Brady, and learn of him what could be done.

That statement appeared in the affidavit as given to the Associated Press. Now, what does Price testify to? I do not care to go into it in detail. The committee have the testimony before them, and can examine it for themselves; but I call their attention to the fact that nowhere in that testimony does Price make any such statement, or charge that in any conversation that he alleges he had with me in regard to this matter, I ever said one word to him of this kind, or ever said anything even implying that I would go to Mr. Brady and procure this service, or that the service would be procured by my intercession or influence in the Post-Office Department. No such statement, I think, is in Price's evidence. He makes a statement of what he alleges took place between us, and says that nothing more took place. He says that the conversation lasted but a moment or two. He says that his head has been out of fix, and that he does not recollect distinctly, and so on. In this connection I desire to read portions of Price's testimony bearing upon these two points. He does state, however, the point in regard to the delivery of the petition and the application. On his direct exami-

nation one of the attorneys for the United States asked him this question :

Q. Here is a paper (marked number 5), did you hand that to Mr. Kellogg? Was that the application?—A. Yes, sir.

This was the paper that I have called your attention to here, with “I concur” at the bottom of it.

Then the counsel asked him, “Did you also hand him the other papers connected with the Corpus Christi route?” and he answered, I believe, that he handed the applications on both routes to me. Now, on his cross-examination this occurs :

Q. I wish to show you this paper (No. 5) that was shown you yesterday, and see if you are not mistaken as to having given that paper to Mr. Kellogg. Notice the indorsement on the back of it. It seems to have been filed in the Department on the 10th of July.—A. [After examining the paper.] I never noticed the indorsement on the back. But it is usual, in making applications for service, to have the application indorsed before the filing of the paper.

Q. No, no; but here is a paper filed in the Department on the 10th of July, as shown by the file mark. So you must be mistaken about having given that paper to Senator Kellogg.—A. Well, quite possibly.

Mr. INGERSOLL. Just ask him if he took it off the files.

Q. You did not take it off the files after you had put it there?—A. No, sir.

Q. I find here the name of J. B. Elam, M. C., of Louisiana; do you know him?—A. Very well.

Q. Who was he?—A. He was the Congressman representing that district.

Q. The district in which this service was to be performed?—A. Yes, sir; Shreveport.

Q. And E. W. Robertson’s name, sixth district, also appears; who is he?—A. A Congressman from Baton Rouge, La.

Q. He was a member of Congress at that time?—A. Yes, sir.

Q. Both of these gentlemen have signed this application of yours?—A. Yes, sir; I carried it to them and they signed it.

Q. Do you not recollect, also, of carrying that application to Senator Kellogg, and that he signed it, and that then you went and filed it with all those names upon it?—A. I carried it to him and he signed it.

Q. Do you not remember carrying it to the Department?—A. I do not remember filing it, but I surmise that it must have been filed, since you called my attention to the indorsement.

Q. So that, as to that, you must be mistaken in what you stated yesterday. How long did this interview last between you and Senator Kellogg, to which you have referred?—A. It was of very short duration.

Q. How many minutes, do you think?—A. A few minutes, I could not surmise.

There is a good deal bearing upon this part of the case, and while I am speaking of this testimony I want to say that Mr. Price states here two points. When he speaks of the drafts having been given to me he is asked this question : “Q. That was the end of the matter?—A. Yes. I don’t suppose there was a word said. I handed them to him and walked off.” Mr. Price, I think, says that he put the drafts in the envelope, handed them to me, and walked off.

Now, I want to ask your attention to his testimony on one other point, namely, the immunity that he was to receive. On cross-examination he gave the following testimony on that point :

Q. You were indicted, were you?—A. I was.

Q. And you had been indicted before you went before the grand jury?—A. I had been.

Q. And that indictment is still pending, so far as you know?—A. It is.

Q. I want you to state whether immunity has been promised you from prosecution on this pending indictment against you in the event that you would testify before the grand jury, and in these cases against Brady and Kellogg?—A. Personally, it has not.

Q. What has been done about it?—A. But my friends have given me the assurance that if I came forward and testified to the facts, immunity would be granted.

Q. Are you relying upon that?—A. You may draw your own inference.

By the CHAIRMAN :

Q. That testimony which you have been reading be the testimony of Mr. Price in court on the trial?—A. Yes, sir. Now I want to settle this matter of the service right here. If there be any further evidence necessary I will give the committee the names of four or five gentlemen, one of them a gentleman formerly connected with the prosecution, to whom Mr. Price has admitted that I had nothing whatever to do with the matter of procuring this service. I have the affidavits here of two witnesses, and I can give you the names of two or three others in addition, if it be desired, who will swear that Mr. Price has stated, repeatedly and explicitly, that, so far as Kellogg was concerned, he did not procure the service; that these transactions were entirely with Walsh; that Walsh got the expedition; that his (Price's) dealings in that respect were with Walsh, and that I had nothing whatever to do with the matter.

By Mr. VAN ALSTYNE :

Q. Do you say that Price has made an affidavit over his own signature to the effect that he has made such statements?—A. Oh, no. I say that I have here the affidavits, and that I can produce three or four witnesses who will testify that he has made such statements, and I can give the committee their names, if they are desired. When Mr. Cook was an attorney in the star-route cases he had an interview in New York with Price, who stated there explicitly to Mr. Cook and one or two other persons that he had had no dealings with me whatever in relation to these two expeditions. I am glad that the gentleman (Mr. Van Alstyne) interrupted me, because I do not wish to be misunderstood. I make no charges or accusations against Mr. Price. I state the facts as I understand them, and as I gather them from the evidence, those matters that are not within my own knowledge. The matters within my own knowledge I state, of course, upon that knowledge, and am responsible for them. I do not believe that Mr. Price desired to give this testimony against me. He was a sick man, and is still, and I think he is the best man among them—far superior to Mr. Walsh, in my opinion, whatever Mr. Bliss and others may say about the matter. I think that Mr. Price, being a sick man, and having been indicted, this matter troubled him very much, and he is a very sensitive man, and I suppose he felt that he must get out from under the indictment; so, for that purpose, he made a statement about his giving me the drafts. Mr. Price made that statement about giving me the drafts, leaving it to be inferred that I had some business relations with him in this matter. You will observe that all these witnesses testify that they rely upon Walsh. Mr. Merrick testifies that he relied upon Walsh; Mr. Bliss testifies that he relied upon Walsh; nobody seemed to rely upon Price. Walsh was their reliance, and not so much Walsh's parol testimony as his papers, the letters and telegrams that he was ready to produce bearing upon this question, which, as he averred, would inculpate me.

Before I leave the question of service I want to say a word in regard to these drafts. Originally, I had intended to go into this matter fully and state the origin of this thing as I understand it, fortifying myself with such facts and documentary evidence as I could procure to show the animus of this attack upon me, and the cause of its being pressed against me. I think it must have occurred to the committee that there must have been some overpowering motive influencing Mr. Walsh—a man whom I had befriended; a man in regard to whom it would be easy

for me to prove to-day by twenty witnesses that I had for years been uniformly his friend. Why, Mr. Raum, the Commissioner of Internal Revenue, said to me a few months since, "Kellogg, you ought to have let me send Walsh to the penitentiary." It is well known that Mr. Walsh was mixed up with our politics in Louisiana; that he got into a difficulty with Governor Warmoth; that when Warmoth and I were squabbling over State affairs Walsh stood with me, and that I had a friendly feeling for him. He is a man of education, and a man of considerable adroitness and suavity, a companionable man, and I have felt kindly toward him, and have rendered him one unbroken line of favors, running through years. Indeed, I understand that he stated before this committee, in the course of his testimony, that he felt very kindly toward me, and that I had been a friend of his, yet, strange to say, he went before the Mitchell grand jury and, as he told me afterwards, and as he repeatedly stated in his evidence, indicated, in a sentence or two, that he had received certain drafts from me, thus connecting me with this matter. Mr. Bliss says that Walsh did not produce any papers before that grand jury, and it is known to the committee that that grand jury did not find an indictment. There was no grievance there. There was no reason why he should have felt bad about that. But we next find him going to Mr. Merrick, two weeks later, and telling him that he feels aggrieved because he was not permitted to tell all he knew in regard to me before the Mitchell grand jury. He complains about that to Mr. Merrick, and says he wants to be "vindicated." Mr. Merrick tells him that he will see that he is vindicated, and that he has a fair show; that he shall have a chance to get before the grand jury again, and that he (Merrick) will have the grand jury reconvened for that purpose. Mr. Merrick says that he was very anxious that Walsh should testify in the case pending against Dorsey and Brady, and that he told him that if he would testify in that case he would see that he was vindicated. Perhaps I had better read a portion of Mr. Merrick's testimony on that point, which has been handed to me. He says, page 599 of your record:

I continued to urge him to testify in the Dorsey-Brady case, and said that I would see that justice was done to him; that he should have an opportunity of vindicating himself; that I would cause the grand jury to be reconvened, and that he should go before them again and give his testimony in regard to Kellogg, which would be the best vindication he could have. He said that if I would do that he would testify in the Dorsey-Brady case; that all he wanted was to be vindicated and fairly treated. I told him I would see that he was both vindicated and fairly treated, and would have the grand jury reconvened. Mr. Walsh did testify in the Dorsey-Brady case, as you are all aware.

I call attention to this to show that Mr. Walsh was very anxious to get before all these grand juries, and when he got before the Hutchinson grand jury they listened to him for two days. Now, if I had time, and the committee cared to go into that, I would show them the animus of this thing from letters received by me containing extracts from newspapers of a very suggestive character; and I would also show them the process served upon me, demanding my attendance in court for the purpose of testifying in substantiation of a claim that Walsh had made against Brady. I would show the committee that Walsh desired that I should assist him in procuring from Brady, or from the contractors, some forty and odd thousand dollars, which he claimed he should receive.

Q. Should receive from whom?—A. Either from Brady or the contractors or some one. However, I do not care to go into that now.

By Mr. STEWART:

Q. Do you mean to say that before he gave his testimony, and before he had that interview with Mr. Merrick, you had been importuned, by letter or otherwise, to aid him in recovering a claim which he had against Brady or against the Government?—A. I do, sir.

Q. What had you done in reply to those requests?—A. I had utterly refused. It is a long story. We had had some difficulty in regard to the matter. It would consume so much of the time of the committee that I do not care to go into it now; but, at the time he had his interview with Mr. Merrick, he intimated that he wanted to see me, and I did see him. He demanded then that I should aid him in procuring his claims against Brady, and it was after that time, or about that time, that he first indicated that he had had notes of Brady's. He had made the statement which Mr. Bliss has produced here, and which I have read; a statement revised and corrected in his own handwriting, and then given to Mr. Bliss, in September, 1881, in which statement he gave a different version of this indebtedness of Brady to him, and did not claim that it did grow out of any notes at all. He also omitted there a very significant passage, which appears in the testimony that he gave in court, and which gave the court the opportunity to rule his testimony in, namely, the statement that in that conversation with Brady in regard to the notes, Brady said he was only demanding from Walsh the same pro rata amount that he demanded from all the other contractors. Walsh had never thought of that at the time he made the statement in September, 1881. In that statement he says positively that he received those drafts from Brady, and my name does not appear anywhere in the statement.

Mr. STEWART. That is already in evidence.

The WITNESS. Well, if it comes to that, I could pile up evidence showing the animus of this business. Letters have been sent me. I have one here now from New York that I had thought of reading to the committee, but I will not take the time. The whole question was as to whether I would aid him in compelling certain men to pay him money, and because I would not do that, and corroborate his evidence, he has pushed these proceedings against me. Only a year ago I received a process from a New York court, in which Mr. Walsh had made an affidavit setting forth that I knew of an indebtedness, which I could by no possibility have had knowledge of, existing on the part of Brady to him, Walsh. He says that I paid him \$10,000 as the agent of Brady, which he knows to be utterly false; and that was the basis of the application in the civil suit pending before Judge Bartlett in New York against Mr. Brady, to have me brought as a witness to prove an indebtedness on the part of Brady to him.

Now I will leave the question of service, and pass to the question of indebtedness. The question is, did I receive any compensation? If I did not render any service whatever, of course the charge is baseless. If I rendered service, and did not receive any pay for it, that would not be an offense within the statute. Mr. Walsh alleges that I received one-half of the proceeds of five drafts of \$3,000 each, if my memory serves me right, and a note of \$5,000, given by J. B. Price. Now I want to state to the committee precisely what relation I had to those drafts. As is well known, my contest for my seat in the Senate, the case known as the Kellogg-Spofford case involving the question of my seat, was pending in April, May, June, and July, 1879, having originated in April, 1879, at the extra session of the Senate. We had taken a great deal of evidence. The witnesses arrived in Washington on the 4th of June;

they began to testify on the 5th of June, 1879, and the committee continued to take testimony during part of June. Congress adjourned on the 1st of July that year, and in the mean time the committee had taken, I suppose, 500 pages of testimony, which was being transcribed, and I was looking after it and making a summary of it, with the aid of my attorneys, Messrs. Shellabarger and Wilson, with the view of going to New Orleans and attending the session of the subcommittee that had been directed, by the Committee on Privileges and Elections, to go there and take testimony, commencing on the 17th of November, 1879, at the St. Charles Hotel. I was then living at Willard's, as I am now, and occupying the same rooms that I now occupy—rooms 70 and 71. Mr. Walsh had been living on Fourth street, but had given up his house there, had sent his family to Fortress Monroe, and taken rooms at Willard's adjoining mine, his being rooms Nos. 72 and 73. His parlor opened into my parlor. Mr. Price was at that time in room 83. This, you will observe, was about the close of the fiscal year, and the contractors were all here looking after their contracts. Mr. Walsh had, it appears, just procured expedition—you may have heard of it in the testimony adduced before you—a very large expedition, as it turned out to be, growing out of what is termed the McDonough contract on the route from Santa Fé, New Mexico, to Prescott. He had had the service expedited and the pay increased, first, I think, from \$18,000 to \$36,000, then from \$36,000 to \$74,000, and then from \$74,000 to \$135,000. I am not sure, but I think that is a substantially correct statement. Mr. Price had, I believe, a route called the Albuquerque route, running in the vicinity of Mr. Walsh's, and of course they were friends and were together a great deal. Now I call attention to certain facts of which I have procured a memorandum from the hotel register. From that register it appears that Mr. Walsh came to Willard's Hotel and occupied room 72 and 73 on June 4th, 1879; left on the 12th of July; returned on Friday evening, July 18th; left July 21st; returned, and left July 23d; returned again October 20th; left October 29th; returned November 1st and occupied room 32, and left again November 5th. Mr. Price came to Willard's and occupied room 83 on June 30th, 1879, in the morning; left July 12th; returned July 15th, in the morning; left July 18th, after dinner; was there on different occasions during August and September, returned October 30th, and left November 5th. He occupied room 52 while he was there. He came here and occupied a room near Walsh's on October 30th. Walsh arrived November 1st, and they both left November 5th. I had left Washington the latter part of July. I think I was here some time during the summer, and then casually for a day or two looking after some matters connected with my case, and then I went West and South.

At the hotel we were often together and Walsh and Price were in and out of my room a great deal, having been, as I understood, old friends in Louisiana. Mr. Walsh had procured his expedition, and Price knew it, and Price himself was applying for expedition, and, as I understood it, they were working together, though I did not know the details of the matter. Mr. Walsh left the hotel on July 12th and went to Saint Louis. He returned on the evening of the 18th of July. Before Mr. Walsh went away he said to me, "If Mr. Price gives you any papers, keep them for me." Mr. Price came to me, as nearly as I can recollect, on the 18th of July, the very day that he left according to the hotel register, which would be Friday. Walsh had not returned; he returned that night. Price came to me and said, "Hand these papers to Mr. Walsh." I put the papers in my drawer. Mr. Walsh arrived on the evening train, and

the register shows that he arrived after supper. Mr. Price had left after dinner. Immediately after washing and getting supper Mr. Walsh came into my rooms, and we sat up, as gentlemen often do, smoking and talking, and I think it was that evening, but if it was not it was early the next morning, that I handed him the package in the envelope, whatever it contained, telling him that Mr. Price had left it with me for him. Now, that is my whole connection with those drafts. Walsh has himself made a statement that I had no connection with the drafts, and Mr. Price practically admits it in his testimony when he says, as I had read, that not a word passed, that he handed me the drafts and walked away.

Now, I want to show this committee how much compensation I received. That is a question easily settled. According to the statement last made by Walsh, I handed him these drafts, and told him to set one-half to the credit of Brady, and give me the other half. Now, that is a matter that we can get at. The question is, Did Mr. Walsh pay me any money on those drafts and on that note? I have a copy of that note, and I will read it. It is the note that it is said accompanied the drafts that Mr. Walsh afterwards stated, and that I have reason to believe, I handed to him. This note reads (I read from the court record):

\$5,000.00.]

WASHINGTON, D. C., *July 16, 1879.*

Less 300 and 4,700 due. Four months after date I promise to pay to the order of myself five thousand dollars at First Nat. Bank, New York. As collateral security attached, see list on back of this note with power to sell at public, or notice upon non-payment of this obligation.

Due November 19.

The indorsement on the back in red ink is:

List of collaterals attached to note: One thousand shares of the "The Shakespeare Gold and silver M. and M. Co.;" also the note of Hugh White, indorsed by M. Salisbury, dated Washington, Jan'y 13, 1879, for four thousand dollars.

Then follows the indorsement "J. B. Price," which is erased by marks drawn through it. Below that is this indorsement:

November 8, '79. Credit on the within note (\$300) three hundred dolls.

Now the statement of Mr. Walsh, as I understand it, and I do not think there is any dispute in regard to it, is that in conformity with my instructions—which I deny absolutely and unqualifiedly—he did pay to me one-half of that note, and one-half of the drafts. Let us examine that question, and let us take the note first. On page 1733 of the court record, Mr. Walsh, testifying in the first star-route case, as it is called, gave certain testimony to which I call the attention of the committee. The counsel were going over this matter of his suit against Brady, and the credits he had given, &c., and he was examined as follows:

Q. You have given him [Brady] credit here for \$5,000.—A. That was the Price note that he gave me [MY NAME HAD NOT BEEN MENTIONED AT ALL AT THAT TIME] that was collected by Winslow, Lanier & Co.

Q. That who gave you?—A. That Kellogg gave me.

If you will notice the context, you will see that my name does not appear anywhere else in his testimony. He has been talking about Brady, and about the credits that he gave Brady, and there is, I think, a place in his evidence where he makes out that the note and the draft were given to him by Brady, just as he represented in that statement made in September, 1881, produced here by Mr. Bliss, but in the answer

that I have just read he says, "That Kellogg gave me." Then he was further examined as follows:

Q. You say that Kellogg gave you the \$5,000 note?—A. He gave me \$15,000 in postal drafts and \$5,000 in a note of J. B. Price.

Q. A \$5,000 note?—A. Yes.

Q. That you are sure of?—A. Very sure of it.

Q. As sure as you are of anything you have stated?—A. I am very sure of it; yes, sir.

Q. And you gave him [Brady] credit for that \$5,000?—A. As the examination afterwards shows.

Now, I want to call the attention of the committee to page 1752 of the record, where there is a schedule or bill of particulars given, together with the affidavit of John A. Walsh, in a suit that he had brought against General Brady, a suit entered in the Supreme Court of the District of Columbia. In this suit, in his petition Walsh gives Brady credit for this identical \$5,000 note—*i. e.*, \$4,700 and \$300. In this affidavit he states that it is a bill of particulars, and he predicates it upon an unliquidated account; whereas afterwards he testifies in regard to the existence of notes. If the committee cared I could tell them just how that originated, and how it was set up, and how Walsh came to testify about those notes. I could give you the name of the lawyer who was called in, and could tell the manner in which that whole thing was set up so that Walsh should testify about those notes and interject into his evidence the statement of what Brady had said to him on the occasion of the interview, and that Brady had wrested those notes from him—a ridiculous story, as seems to have occurred to some of the members of this committee, because I observe that in Walsh's examination here Governor Stewart remarked to him, "You are not a weakling" In the same way it was arranged that he should inject into his testimony in regard to that interview the language which he put in Brady's mouth—"I expect you to pay just what all the other contractors pay." However, I will not dwell upon that part of the case, but I cannot pass from it without making one additional remark. I make no charge, but I want to call attention to the testimony of certain witnesses here. Mr. Bliss says in this connection, at page 207 of your record:

Now, as regards Mr. Walsh, he could not testify to the payment of any money in the Dorsey routes or anything of that kind. Walsh's testimony related solely to his own route from Prescott to Santa Fé. He claimed to have paid money to Brady; that he gave that to Brady from time to time as loans, and when he called upon Brady for a settlement, that Brady then said, "Why, I don't owe you any money; I have done enough for you. Have you not had a good contract, and various things of that sort?" That is the way it was presented in connection with the original statement regarding the route from Prescott to Santa Fé. On that basis of things, as a lawyer I should say it was exceedingly doubtful whether that evidence of Walsh would have been admissible in the Dorsey case, which related to entirely different routes; to entirely different parties. I thought it would hardly come within that class of decisions which allow you (where you are trying a man for false pretenses in a particular case) to prove that he made other false pretenses to other persons of the same general nature. At any rate, it appeared to be very doubtful whether it would be allowed as evidence against Dorsey. I remember that I gave the matter careful consideration. It turned out, however [the committee will notice the language, "it turned out"], that according to Mr. Walsh's version of his interview with Mr. Brady during that time, when he was having this discussion, that they went to work, and had some figuring, and that Mr. Brady said to him in substance, "You must pay such a percentage of expedition, and such a percentage of increase, just as the other contractors do," indicating very plainly by that that all of the other contractors were doing that thing.

After an elaborate argument, as I recollect it, extending over two or three days, Judge Wylie admitted that testimony into the Dorsey case. You will not find it in the original brief of what Mr. Walsh would testify to in connection with the Prescott and Santa Fé route, which these gentleman produced at Long Branch. It came

to my knowledge incidentally, considerably later on. With Mr. Walsh I had comparatively little to do. He early conceived a hostility to me. Mr. Merrick was the party who, after my first interview with him, had dealings with Mr. Walsh, as a rule. It was Mr. Merrick who ascertained from time to time what Mr. Walsh could testify to.

I read now from Mr. Merrick's testimony, page 598:

Q. When did you first learn the fact that Mr. Walsh was a material witness for the Government in that case?—A. At some time in the progress of the trial I learned it, I think from Mr. Woodward, and possibly Mr. Bliss also may have spoken to me about it. After I learned of it we had a consultation about it. I know that before Mr. Walsh testified Mr. Bliss and I had a consultation about his testimony—a very full talk. Now, just *when* I first learned of it I do not know, but it was after the trial began, and my impression is that it was brought to my attention by Mr. Woodward. The discussion between Mr. Bliss and myself was in regard to the admissibility of the testimony, and we agreed that the testimony was admissible in the case for the reason that Walsh would say [notice the language, "Walsh would say"] that Brady had avowed that the rule which he sought to apply to him (Walsh) was the rule applicable to all contractors, and therefore it embraced these contractors.

Mr. BLISS. But that statement was only obtained from Walsh after the trial commenced.

The WITNESS. That may have been.

Now, I do not want it understood that I charge Mr. Bliss or Mr. Merrick, or any of these attorneys, or Mr. Woodward, with having persuaded Mr. Walsh to change his original statement, which they had in their hands—the statement he had made in September, 1881. I cannot imagine that those gentlemen would induce Mr. Walsh to resort to the extraordinary story that he did resort to. Still, he must have told it to them, and he did tell it to them in this connection, and I repeat that I know of the lawyer with whom he consulted, and who advised him that he could not maintain his suit against Brady upon an open account; that no person in the world would believe that story any more than the grand jury would believe it, or did believe it; and thereupon Walsh changed his plan entirely, and resorted to the story of the notes. Now, I have shown that Mr. Walsh, according to his own testimony, did not pay me that \$5,000 note, or any part of it, and that he swears unqualifiedly that he gave Mr. Brady credit for the proceeds of the note. But he says in an interview—and I take his interview rather than his statement before the grand jury—

Mr. STEWART. If you will allow me to make a suggestion, Mr. Kellogg, it seems to me that your case would be better presented if you would state the facts as you understand them, and pay your respects to Mr. Walsh afterwards.

The WITNESS. I admit that my statement is somewhat disconnected, because it is so hurried and incomplete. If I could take my case consecutively and have a day or two in which to state it fully, it would be much more satisfactory to me, and also, I think, to the committee; but the circumstances seem to forbid that at present. I am just going to pass from Walsh. I am simply on the question of payments now. Mr. Walsh states that he gave me a number of checks and drafts; he calls them drafts, but I call them checks, and I think they are called checks in common parlance. I am very anxious that the committee should see those checks, and I will show them a copy presently. One of them is a check for \$2,000, which Mr. Walsh says represents a part of this note and drafts. There is also a check for \$500, paid to Shellabarger & Wilson about that time. Now, I am prepared to show the committee that that \$2,000 check given by Mr. Walsh to me related to an entirely different matter. He has sworn in the first star-route trial that he gave Mr. Brady credit for the whole of the \$5,000, but I will show the committee that all the money that he paid me proceeded from an entirely different

source, and was paid for an entirely different purpose. Mr. Walsh owed me money, and if the committee desire I have any amount of documentary evidence to show that fact, and if you are willing to examine the witnesses who make these affidavits I will bring them here and prove the existence of that indebtedness on the part of Mr. Walsh to me. He owed me money. I had just returned from New Orleans in December, and on the 23d day of December I went to Mr. Walsh for the fourth or fifth time and told him that I wanted him to pay me a certain amount he owed me, and he agreed to give me, and did give me, a check. It was a check upon the bank of Lewis Johnson & Co., and was payable on demand. I told Mr. Walsh that I must have the money. He said that he had not the money to spare at that time, that he was endeavoring to stock his route anew, and had no money to spare, but that if I would agree to indorse a note for him of \$2,000, and have it discounted, as I was going to New York the next day, and set the amount to his credit at the banking house of Winslow, Lanier & Co., he would pay me \$2,000 that day; and then when this note came due, thirty or forty days later, he would take it up. I was going to Worcester, Mass., to spend the holidays, and going through New York, leaving here on the night of the 23d, and in order to get my money, I agreed to Walsh's proposition. I took the check that he gave me to Lewis Johnson & Co. and had it cashed. I took his note, which he gave me that day, with me to New York, arriving there on the morning of the 24th. I went down to the banking house of Winslow, Lanier & Co., and went into Mr. Charles Lanier's office. Walsh had an account there, but he had run it down pretty well, because, as I was told by him, on account of his expenditures in stocking his route. I said to Mr. Lanier that I wanted him to discount Walsh's paper, and give him credit for \$2,000. He hesitated a little about it, but finally said, "If you will indorse it I will do so." I sat down and indorsed the note. He rang his bell. Mr. Chamberlain, his cashier, came in, and Mr. Lanier told Mr. Chamberlain to discount that, and the "ticker," as they call it in bankers' parlance, shows that it was discounted, and they gave me their check for \$1,987.56, and I indorsed it and sent it to Walsh. The only way I have of judging the length of time the note ran is the amount of discount at the rate of 6 or 7 per cent. When I saw these papers published by Walsh, and understood that he was trying by means of them to connect me with this Price transaction, I was quite certain that that \$2,000 check had come in some peculiar way, at his instance, but the circumstances I could not recall. The grand jury had failed to indict; Walsh had published his interviews in the Herald on the 17th and 20th of November, 1882. After the failure of the grand jury to indict me, he went to New York, and in a few days made a publication setting forth his testimony before the grand jury, with notes, checks, &c., this check being among them. As I have stated, I felt that this check had come in some peculiar way, and I tried to recall the circumstances and to investigate the matter, but I could find no clue to it among my papers, because I keep no books. Walsh testified that he had kept books, but that they had been taken to Welcker's and sold for old paper. How to get at this matter I did not know, when, one day, at the Fifth Avenue Hotel, I was talking with Governor Warmoth, and he said, as nearly as I recollect: "I know that fellow very well. There is a catch in that; didn't he have you indorse that over to somebody else in some way?" I said, "That is not possible; I remember very well sending him back a check sitting at Mr. Lanier's desk." "But," said Governor Warmouth, "are you sure that

it was payable to him?" I said, "I am not so sure about that." "Well," said he, "let us walk down there." We walked down to the office of Winslow, Lanier & Co., and took the cashier into our confidence. He put two or three of his men at work, and they ran through the papers and found the check, a copy of which, with the indorsements and the certificate of the notary, I will read:

No. 91423—B

NEW YORK, Dec. 24th, 1879.

The Third National Bank pay to the order of W. P. Kellogg nineteen hundred and eighty-seven $\frac{56}{100}$ dollars.

\$1,987 $\frac{56}{100}$.

WINSLOW, LANIER & CO.

National Bank Note Company, New York.

(On the margin:) Winslow, Lanier & Co.

Indorsed as follows:

Pay to Benj. Scheckel, or order.

W. P. KELLOGG.

BENJ. SCHECKEL.

Pay to the order of the National Park Bank, N. Y., for account of Lewis Johnson & Co., Washington, D. C. [Stamp.]

The National Park Bank, of New York. Paid. [Stamp.]

I hereby certify that the above is an *exact copy* of the original draft No. 91423, issued by Winslow, Lanier & Co. on the Third Nat'l Bank, N. Y., and of the indorsements thereon.

[SEAL.]

HUMPHREY J. MONAHAN,

Notary Public, City and County of New York, Nov. 30th, 1883.

I have here also a letter from Winslow, Lanier & Co., transmitting this and expressing regret that they cannot consistently take the original from their files or otherwise they would send it. This accounts for the two thousand dollar check. When I saw this, the matter came back to my mind in a moment. Ben. Scheckel was Walsh's clerk; he is now a clerk in the War Department. He did not keep Walsh's books, he says; Walsh kept his own books; but Scheckel ran backwards and forwards and collected for him. Scheckel received that check, and if you send for the check and for Mr. Scheckel he will testify to that fact. I have seen the check. I know that the indorsment is in Mr. Scheckel's handwriting and he received the money for Walsh. That accounts for the two thousand dollar check published by Walsh. Now, I say to this committee that I have evidence of indebtedness, and affidavits and documents from New Orleans, showing an indebtedness on the part of Mr. Walsh to me of several thousand dollars, if the committee cares to go into that matter now or at any time hereafter. It is enough for me to say at present that I account now for the principal draft of \$2,000, and that I will account for every single draft or check that Mr. Walsh has paid me. One is for \$500, less a discount of 7 or 8 per cent., payable to Messrs. Shellabarger & Wilson, my attorneys, and dated in July, 1879, I think. The next is for \$500, I think, and there is another for \$625, and one for \$600; another is this one for \$2,000, and later on I think there is one for \$1,500 that Walsh says, I am told, that he has lost, but I say to this committee that I am prepared to show that these payments all related to legitimate indebtedness of Walsh to me and had no relation whatever to these postal drafts, and that the money he paid me belonged to me of right, without regard to any supposed service that I had rendered in relation to mail matters, and I am prepared to show the origin and basis and nature of that indebtedness in general and in detail, if the committee desire.

By Mr. STEWART:

Q. You say that Walsh gave you a check for \$2,000?—A. He gave me a check for \$2,000 on the 23d of December.

Q. A check on what bank?—A. On Lewis Johnson & Co., in this city. He gave me the check and I received the money.

Q. You received the money in this city?—A. Yes, sir.

Q. And then, for his accommodation, you took his two thousand dollar note and indorsed it, and Winslow & Co. discounted it?—A. Yes, sir.

Q. And, on account of that note which was discounted, you received this two thousand dollar check, less the discount?—A. I received the two thousand dollar check.

Q. And that check you indorsed to Walsh's clerk?—A. Yes, sir.

Q. And it was transmitted to him or to Walsh?—A. To Walsh. The moment my eye fell on that I remembered that he had told me to indorse it to Sheckel.

Q. Did Walsh pay the note to Winslow, Lanier & Co. when it matured?—A. Certainly he did.

Q. And that was all there was of it?—A. That was all there was. That accounts for the two thousand dollar draft; it shows you the origin and nature of that transaction, and the use he made of it shows the methods he adopted to cut off all evidence of indebtedness, and if I had time I could show his tracks all the way through this conspiracy. If Walsh had been an honest banker, simply doing a regular banking and collecting business as he said, and if the transaction had been such as he described, and if I was to have the half of that note, he would have paid me my \$2,500 in full; he would not have stopped with paying me \$2,000; but he not only did not pay me \$2,500, which would have been half the amount of the note, but he did not pay me even \$2,000 until I myself indorsed his note and procured a discount on it, which note he paid later, and on an indebtedness due to me.

Q. Do you remember why you indorsed that check to Sheckel instead of to Walsh, if Walsh was to have the benefit of the money?—A. That was at the instance of Walsh. He told me to indorse it to Sheckel; why he told me so, I do not know.

Mr. WILSON (counsel for Mr. Kellogg). It may have been to enable Sheckel to indorse the check in Walsh's absence.

The WITNESS. No; Walsh was here.

Mr. WILSON. But he might have been going away.

The WITNESS. Well, I never did understand the reason of that, any more than I understood the reason of a good many other things that Walsh did.

By Mr. STEWART:

Q. You say Walsh had an account with Winslow, Lanier & Co.; why didn't you leave the money to his credit there?—A. Because he desired me to send it to him, in order to replace the \$2,000 that I had got from Johnson & Co. a day or two before on his check.

Q. Do you remember the date of that check?—A. It is dated December 23. The check as published by him is correct, I think.

Q. At the time you received that two thousand dollar check here in Washington, you say it was paid to you by Walsh on account of an indebtedness from him to you?—A. Yes, sir.

Q. And that, you say, was indebtedness growing out of your past business transactions?—A. Yes, sir; in New Orleans.

Q. Was it in any way connected with his star-route transactions?—A. Not in the slightest degree.

Q. It was not given to you for any service that you had rendered him in that way?—A. Not in the remotest degree.

By the CHAIRMAN:

Q. Let me understand this matter clearly. You say that on the 23d of December, 1879, Walsh paid you a \$2,000 check, and you got it cashed at Lewis Johnson & Co.'s?—A. Yes, sir.

Q. You received the benefit of that?—A. Yes, sir.

Q. Was that for any sum of money that Walsh owed you?—A. Yes, sir.

Q. Then why did not that square your account? If he simply owed you that much, and paid it at that time, why did not that payment end the matter?—A. It ended the matter so far as that payment was concerned.

Q. That ended the Lewis Johnson & Co. matter?—A. That ended the Lewis Johnson & Co. matter. Mr. Walsh afterwards took up the note discounted by Winslow, Lanier & Co., and I gave him credit for the \$2,000 he had paid me.

Q. You enabled him to borrow the money to pay you?—A. Yes, sir; I have put this check in evidence for the two reasons I have stated. I have shown that Mr. Walsh swears that he gave Brady credit for the Price note, but I have not been content with that. Inasmuch as he has intimated, or left it to be inferred, by publishing that \$2,000 check, that it was part of the proceeds of the Price drafts, I have gone on and shown how that check came to be given, and in what manner it was received by me.

By Mr. STEWART:

Q. Now, you say that there was a \$500 check that he drew which was payable to your counsel, Messrs. Shellabarger & Wilson?—A. Yes, sir; less discount. There is also among others a check of, I think, \$1,200 or \$1,500. There was another payment that he made me, I feel quite sure, but I have tried in vain to ascertain when it was made. I have a letter here from Mr. Lewis Johnson, in which he says he is utterly unable to find any such check. Walsh states somewhere, I think, or some one states for him, Mr. Ker, perhaps, that some of the checks that he relied upon were lost and could not be produced.

Q. In what did your account against Walsh rest or consist?—A. I will go into that if the committee will hear me.

Q. Just answer my question.—A. It was a note that he gave me in 1877 for \$6,000. In January, 1879, I put to his credit \$1,900. I have the certificate of it here.

By the CHAIRMAN:

Q. What did that relate to?—A. It related to a note that I had indorsed by him, and I took it up and set that amount to his credit. That was another favor that I did him.

By Mr. STEWART:

Q. You say you had a note of Walsh's in 1877 for \$6,000?—A. Yes, sir.

Q. Where is that note?—A. It was finally paid and surrendered to him about the last of December, 1880, or in January, 1881.

Q. Was that note outstanding and due at the time you got this \$2,000 check?—A. Oh, yes, sir; I have affidavits in regard to that; two of them made by men who cannot be impeached, and one of whom had the note in his possession and presented it to Walsh at one time.

Q. Was that payment indorsed on the note after it was received?—
A. Yes, sir.

Q. And the other payments that were made to Messrs. Shellabarger and Wilson—were they made also on that note?—A. Yes, sir.

Q. Mr. Walsh produced before the committee several checks payable to your order; were those checks given and applied to that \$6,000 note of which you speak?—A. Yes, sir; every one of them on indebtedness to me.

Before I pass on to another branch of the case I want to make an explanation in regard to the proceeds of these drafts. It will be borne in mind that Walsh testifies that he agreed to set to my credit one-half of the amount of the five \$3,000 drafts, making \$15,000 in the aggregate, and one-half of the \$5,000 note. He testifies that one-half of the amount was to be paid to me and the other half to Mr. Brady. I have shown you that he testified in the first star-route trial that the proceeds of the \$5,000 note were given to Brady absolutely. I will now show you that one of the drafts, if not more, was made payable and was paid to entirely different parties. Here is a draft of Frank Seaman, assignee of J. B. Price, for deposit, indorsed by Frank Seaman, and after that E. J. Masson, showing that it passed through two or three hands; but Mr. Walsh, in his testimony before the court, stated that he paid it to Frank Seaman.

Mr. WILSON. The indorsements show that.

Q. Who is Frank Seaman?—A. I do not know; he is a Brooklyn man, I believe.

By Mr. CRISP:

Q. Are those drafts indorsed by Walsh?—A. Yes, sir.

Q. That indicates that Walsh received the money?—A. That either he or his assignee received the money. In his testimony in the star-route case he was asked if he collected all of them. He answered that he did not; that some of them he assigned, and that he assigned one or more to Frank Seaman.

By the CHAIRMAN:

Q. According to that statement they were all for his benefit?—A. Yes, sir. Now, the committee will notice that Walsh testified in the star-route trial that he paid the proceeds of the note of Price—the \$5,000 note—to Brady, or gave him credit for it. They will notice also that one of these drafts is assigned to Frank Seaman. Walsh says he put to Brady's credit \$7,500 of the proceeds of the drafts, so that I could not have got that money. Then, in addition to that part of the proceeds of the drafts, there is the \$5,000 note which he says he put to Brady's credit. That makes \$12,500—

Q. (Interposing.) But he stated that \$7,500 of the money came from some other source—from Petersen.—A. I am still right, Mr. Chairman; wait a minute. I am speaking now of the postal drafts. Now, if Walsh paid Brady, say, one-half of the \$15,000 in postal drafts, that would be \$7,500 of that money placed to the credit of Brady. Then Walsh swears further that he credited Brady with the proceeds of the \$5,000 note. That, as I have said, makes \$12,500 that he swears he gave to Brady. Then there is this other postal draft for \$3,000 collected by Seaman.

The CHAIRMAN. That is embraced in those other drafts.

Mr. CRISP. As I understand the witness, he is seeking to show the particular application of each one of these drafts. The substantial

thing, as I understand it, is that Mr. Walsh says he got \$20,000—no matter how he got it—\$10,000 of which went to Mr. Brady and \$10,000 to Mr. Kellogg, and these details as to what he did with the drafts it seems to me are entirely immaterial.

The WITNESS. But what I want to show is that, according to Walsh's own testimony, I could not have received \$10,000 of the proceeds of those drafts and that note.

Mr. CRISP. If the money was necessarily paid out of that specific fund, that would be correct; but if half the whole amount was for you, he might still have given Brady \$5,000 as a payment on his half, and then paid you out of the proceeds of the other drafts.

The WITNESS. But he does not account for any payment to me except half of the Price note and drafts, and yet he swears that he credited Brady with the whole of the Price note.

The CHAIRMAN. I think he swore that he paid half the proceeds of that note to you.

The WITNESS. Yes; I think he did so swear in one of the star-route trials.

Mr. STEWART. Mr. Kellogg's point is this: That there is a contradiction in Walsh's testimony, because he testified on the Dorsey-Brady trial that Brady had received the entire proceeds of that \$5,000 note, and he testified here that Mr. Kellogg received half the proceeds of the note. He says now, in substance, that he collected the money on these postal warrants and the \$5,000 note, and credited Brady with half and Kellogg with half. Now, the point made here seems to be immaterial. If you were criticising Walsh before a jury as to the question of his credibility, and as to how much reliance was to be placed on his testimony, I can see that an attorney might make a point on that, but I do not think it is very material here.

The WITNESS. Oh, no, I am not making the point in that way. I am only showing you that, according to his own evidence, it would not have been possible for him to have given me more than \$4,500 of the proceeds of those drafts and that note. But, as I have said, I am prepared to account for everything he has paid me. I was going on to show now that, according to his own evidence, he paid Brady, or gave Brady credit for, the proceeds of the Price note, and then indorsed one of those drafts to Seaman, and as to another one he says that I drew on him in the winter of 1881 for the \$1,943, of which he says \$1,500 was part of the next to the last draft, and \$443 was the proceeds in part or in whole of the Petersen draft. I refer now to what he said in a published interview; I don't think he even swore to this. I have here the very draft that he says I drew on him, together with copies of telegrams and letters relating to that transaction. Here is the draft:

Please pay to Messrs. Winslow, Lanier & Co., 26 Nassau street, \$1,900, and this will be your receipt for the same.

On the back is, "Pay to the order of Winslow, Lanier & Co.," and then "Returned."

Here is the letter of Winslow, Lanier & Co.:

NEW YORK, *March 4, 1881.*

DEAR SIR: Herewith we return your order on John A. Walsh for \$1943, unpaid. We have presented this at his residence several times, but could not collect.

Very respectfully,

WINSLOW, LANIER & CO.

Hon. WM. P. KELLOGG.

Now, I was going on to say that there is \$3,000 of these drafts that he assigned to Seaman, and he does not, I believe, claim that he has paid

me anything since that time. Then there is half the Price note, amounting to \$2,500, which he swears he gave Brady credit for, and the other half that he says he paid me, showing that there is only left \$4,500 out of that fund that could by any possible means have come to me. I say further that whatever he did pay me I can account for as a payment upon an indebtedness which he owed me. I will not trouble the committee with the details, but that is the substance of it. I desire here to say that Walsh never did pay me that \$1943.

Now, as to the Petersen matter, if the committee care to go into that, I have Petersen's affidavit and the evidences of indebtedness, which I will cheerfully produce at any time they are desired. The point that I make is that I never rendered any service, and that there is no evidence that I ever did render any service. When Walsh was asked before the grand jury if he knew that I had rendered any service, he said that he did not. He had to say that for his own protection, as I understand it, and there is no evidence outside of Walsh that I did render service. I say that I never received any portion of those drafts. I may have received a part of the proceeds of the drafts, but whatever he paid me he paid me upon a legitimate indebtedness from him to me, as I am prepared to establish. Now, I may be asked, "Why was it that you did not go into the merits of the case before the court?"

Mr. CRISP. We are not going into that question, Mr. Kellogg.

The WITNESS. Well, then, I do not care to trouble the committee with it.

By Mr. CRISP:

Q. I understand you to say that the evidence does not disclose that you were instrumental in procuring that expedition, and that it does not show any other connection of yours with the matter than that your name appears indorsing the application?—A. None other that I am aware of.

Q. Now, I want to know whether *in fact* you did have any other instrumentality in procuring that expedition?—A. I stated in the outset this morning, I think, before you came in, that I absolutely did not aid in procuring the service on these two routes, and Mr. Brady, if you send for him, will be compelled to swear to the same thing if he swears to the truth. If Mr. Price had come to me and had said, "I desire you to make inquiry at the Department about this matter," I should certainly have done it; or if Mr. Walsh had come to me in the same way, I should have done it; but Mr. Walsh knows, and others know, that he was a broker here engaged in that business, and you have only to send for George F. Brott and Mr. Petersen and others to establish the fact that Walsh was engaged in getting mail contracts expedited and receiving pay on the same.

Q. You did not have any conversation with Mr. Brady on that subject?—A. I never spoke to Mr. Brady in my life in regard to it that I can recollect. I have asked Mr. Brady, and Mr. Wilson has asked him, and he says that he never spoke to me in regard to the matter. He says that Mr. Elam and other members of Congress from Louisiana were very anxious that the expedition should be made, and that he thought it a meritorious case, as I believe it is conceded to have been; I state that in justice to Mr. Elam.

Q. You say that Walsh paid you \$2,000 by a check?—A. Yes, sir.

Q. And \$500 at another time?—A. That is my recollection.

Q. And \$625 at another time, and \$600 at another time, and \$500 to Messrs. Shellabarger and Wilson?—A. Yes, sir.

Q. That aggregates \$4,225. Now, as I understand you, those payments were applied by you to an indebtedness from Walsh to you?—A. Yes, sir.

Q. Will you be good enough to state when that indebtedness arose?—A. I will, sir [referring to a paper]. In January, 1877, I was elected to the Senate in Louisiana. As is well known in Louisiana, Mr. Walsh was around the legislature, advancing money and buying up warrants. I left about the middle of January, and just before I left—a night or two before I left—we were making up funds in order to provide for our legislature and for the taking up of warrants that had been issued under an act which I had approved. The Nicholls government had done the same thing. Mr. Walsh came to me and expressed the belief that Hayes would be maintained, and that the Packard government would be maintained at the same time. He was banking upon that, and raising what money he could for investment. I was about to go away, and he asked me to let him have some money, and I did let him have some. I have here an affidavit made by Mr. W. G. Lane, who was a member of the committee on contingent expenses, I think.

Mr. CRISP. Unless you desire to go into those details, Mr. Kellogg, I do not think it is necessary.

The WITNESS. I thought you desired it.

Mr. CRISP. No, sir; I merely want to know in a general way how the indebtedness arose.

The WITNESS. Well, it arose in that way. I came up here with my credentials, and the Electoral Commission was in session, and Hayes was finally declared to be President, and I went back. Walsh had an office in Gullier court, I think, where he was a broker. My brother-in-law, Mr. Wills, had dealings with him as a broker; and in our final settlement, on the 30th day of May, I believe it was, 1877, we settled up and I took Walsh's note for \$6,000. The note is fully described in an affidavit by a gentleman of whom Mr. Ellis or any of our members will, I think, tell you is entirely reliable.

Q. And that was the origin of the indebtedness?—A. Yes, sir; that was the way the indebtedness arose. The note was held for a while, and then presented to Walsh, and then it was sent on by another man to me, and I have here the affidavit of a gentleman who held it and presented it, and who knows its history from the beginning to the end. I have here a number of affidavits in relation to it. Here is the affidavit of Mr. Petersen in regard to that indebtedness.

(The witness here handed a number of papers to the chairman.)

Q. (Referring to the papers.) Who is W. G. Lane?—A. W. G. Lane was connected with the committee on contingent expenses of the legislature, and was a sort of financial agent of Walsh there.

Q. Where does Lane live?—A. In New Orleans.

Q. He swears in this affidavit that he heard Walsh say that he had borrowed \$5,000 of you at that time.—A. Yes, sir; he knows the fact, and the use made of it, as it went into a fund used by Walsh. That could be easily established.

Q. What fund?—A. The fund that was raised for the purpose of purchasing warrants and paying the expenses of the legislature. There was the Nicholls legislature establishing a government, and on the other side was our legislature, and there were no taxes being paid to either. One legislature passed an appropriation act under which they issued warrants, and the other legislature did the same thing. It was believed that if Hayes was declared President, Packard would be maintained as governor of Louisiana, and these speculators were purchasing the war-

rants of our legislature on that chance, and they paid for them just in proportion to the belief they had in their intrinsic value, depending upon the chance of the maintenance of the one government or the other.

Mr. WILSON. Walsh was speculating in those warrants?

The WITNESS. Yes, sir; he was speculating in them.

By the CHAIRMAN:

Q. How did it happen that Walsh borrowed \$5,000 of you?—A. Well, it was very natural that he should borrow of me, because he was borrowing of any one that was a friend to our government. I had just been elected Senator, and I wanted the government to be maintained.

Q. Why did he borrow money from you, who had been the governor of the State and had been elected Senator?—A. It had nothing whatever to do with the election.

Q. You had been elected and of course you were interested in maintaining the legislature that had elected you?—A. I was.

Q. And these warrants of which you speak were issued for the purpose of keeping that legislature alive?—A. Yes.

A. And Walsh was speculating in them?—A. Yes, sir.

Q. And he came to you to borrow some money?—A. Yes, sir; he wanted me to let him have some money and I let him have it.

Q. He borrowed money from you at that time for the purpose of assisting him in buying those warrants?—A. He was a friend of mine and had been helping to maintain my government and had had difficulty with my opponents, and he came to me and wanted this money and I let him have it.

Q. Was there any other interest or relationship existing between you and him that caused him to borrow that money of you except his desire to invest the money in those warrants?—A. He told me afterwards that he had invested that money and \$20,000 more in those warrants, and had lost a great portion of it, but at the time I did not know anything about that; I did not stop to inquire. He was a friend of mine and of my government, and was anxious to see me succeed, and I had shown him uninterrupted friendship up to that time, and he asked me to lend him the money and I did.

Q. You do not answer my question, which is whether there were any other business relations between you that caused you to advance him that money?—A. No; I cannot say that there was. He knew very well that I had the money, and that I would aid him if he asked me.

Q. What did *you* know about it?—A. Nothing. He was also acting as broker for my brother-in-law in connection with a plantation that I was interested in.

Q. You lent him the money and took his note?—A. Yes.

Q. Where is that note now?—A. I have already explained that when he had paid me these various amounts I surrendered the note to him. That was in this city.

Q. Did he give you any security on that note, or was it merely his own paper?—A. Just his own paper. I would take his paper and he would take mine. I have indorsed his paper repeatedly.

Q. Do you say that that payment by you of \$5,000 to Walsh was a loan which you and he expected would be repaid?—A. Oh, absolutely. It was so understood.

Q. It was not the proceeds of any legislative influence that he had exerted?—A. None, whatever.

Q. Nor of any other political matter?—A. No, sir.

Q. It had nothing to do with politics?—A. No, sir; it had nothing to do with politics.

Q. It was a mere business transaction?—A. It was a mere business transaction.

Q. And that was repaid to you by the proceeds of the so-called Price drafts?—A. That I do not know, except from his statement.

Q. And you say that at the time when he says he was paying you for your influence with Brady, he was in fact paying you that indebtedness?—A. Yes, the indebtedness accruing from the \$5,000 loans and other indebtedness; he sold some sugar for my brother-in-law and we settled that also in the final settlement.

Q. How much in all did you receive from Walsh?—A. I cannot tell you exactly, but in three or four years running I must have received over \$7,000.

Q. Was it as much as \$10,000?—A. No, it was probably between \$7,000 and \$8,000.

Q. Was there any part of the \$7,000 or \$8,000 that you received from Walsh, during the period that we have been talking about, which was the proceeds of either the \$5,000 note or the five drafts of \$3,000 each which Price has mentioned?—A. None whatever, that I am aware of, though he may have paid me out of the proceeds.

Q. And the payments had no relation whatever to those matters?—A. None at all. Walsh made a point about this \$1,943, and this "dynamite," these letters that he has been talking about. Now I have brought those letters, and I will give them to the chairman, if desired, that they may be incorporated in the record, and I am prepared to account for every one of those checks. I refer to the letters and papers that Mr. Merrick said he wanted when he remarked that he did not want Walsh himself so much as he did his papers. I have got all those papers—that dynamite—and I will account for every paper.

The CHAIRMAN. Walsh did not make any statement in reference to that \$1,943, and it is not involved in this matter. Mr. Bliss stated in his testimony before the committee that you admitted to him on one occasion that you had received this money, but that it was not received in payment for service in securing expedition, or anything of that kind, but as a political contribution from Price to the Republican party. Have you anything to say on that point?

The WITNESS. I want to preface what I have to say about that by stating that the first intimation that I had of anything of that kind was from an interview purporting to have been had with Mr. Merrick and published in the Baltimore Sun a year ago. It was there intimated that some party had stated that I had said that I had received that money for political purposes, and then soon after this I saw a published statement by Walsh in which he accused Mr. Bliss of having said the same to the Attorney-General. Soon after, the Attorney-General having his attention called to the statement, denounced it to one or two newspaper correspondents as untrue; stated with very strong emphasis that it was entirely false. After that Walsh came out and commented upon that denial by the Attorney-General, and attacked the Attorney-General on account of the language he had there used. I heard no more about that until the very day that my case was set down peremptorily for trial, which was a Saturday. Brewster Cameron said to me, "Well, we don't know that we can get Walsh, but do you know that that man Bliss has been telling Merrick and Ker that you acknowledged that you received that money, but claim that you used it for political purposes?" I said, "It is not possible." "Well," said Mr. Cameron, "I

did not think it possible, because I heard him testifying before the committee, and Mr. Springer asked him if he knew about anything of that kind, and he said that he did not, except as he had heard it from some friends of Kellogg's upon the outside." Thereupon Mr. Cameron said to me, "Didn't you receive through the mail a package of the testimony?" I said that I had received it, addressed in a feigned hand. "Well," said he, "I sent that to you in order that you might see what Bliss testified to before the committee, and so that you could afterwards confront him with it in case he should say that you had made this acknowledgment." The matter ran along for a time until I picked up Mr. Merrick's testimony and my attention was called to a colloquy reported there between Mr. Bliss, Mr. Merrick, and the chairman, in regard to what Mr. Bliss had told Mr. Merrick that I had told him, and I saw that, according to that report, Mr. Bliss had stated that I *had* said to him that I had received money from Walsh, but that it was for political purposes. I had some curiosity to know what he would say about that when he got upon the stand again, but I have not been able to see that part of his testimony.

The CHAIRMAN. He stated substantially that.

The WITNESS. Very well. Now, I state that I called upon Mr. Bliss in June, 1882, and stated to him in substance, and practically, just what I have stated here to-day in regard to the drafts and the manner in which I came into possession of them. He asked me if I had received any money from Walsh. I told him I had received money from Walsh. I did not know what Walsh was testifying to before the grand jury or what he would testify to, but Mr. Bliss went on and told me what Walsh would testify to, which was that he had paid me from the proceeds of the drafts. Now, Walsh may have paid me money from the proceeds of those drafts, and I said to Mr. Bliss in substance that Walsh "has paid me money, and it may have come from that source. But it is an outrage to attack me as I have been attacked on such testimony as that, because the fact is that every dollar that I received from Walsh went to my attorneys, Shellabarger & Wilson, and other attorneys that I employed in connection with the contest for my seat went to pay them and to pay my other expenses; and, in fact I have spent almost a fortune in maintaining my seat in the Senate and for political purposes. There is not a single dollar that I have received for years, except the money derived from my ordinary sources of revenue, that I have not put into politics, except what I have had to spend for my living expenses, and a good deal even from my ordinary sources of revenue has gone in for political purposes, and I think that for a man who has made such sacrifices for his party as I have made to be attacked in this way is an outrage."

Q. Then you did *not* state to Mr. Bliss that you had received that money and used it for political purposes?—A. I cannot believe that Mr. Bliss has said that, other than as I have explained.

Q. Did you so state to him?—A. No, sir; I would not be apt to do that when I had published cards, one of them published contemporaneously with that, making a different statement, and when my attorneys and a large number of other persons knew to the contrary. The report in the paper as to what Mr. Bliss did testify on that point was vague and uncertain, and but for that I would have come before this committee at once, or would have gone directly to Mr. Bliss. The interview between Mr. Bliss and me was very hurried. He was packing up to go to New York, and I was sitting in his room when some messenger came in and the interview terminated. Still, he could not have misunderstood me, I think, or understood me to say that, for I have uniformly stated

otherwise. I may have complained that it was an outrage to treat me in this way, because I had spent so much of my means in politics, and made such pecuniary sacrifices for my party, that it was an outrage to attack me in such a way under such circumstances, when I had absolutely done nothing wrong.

Adjourned.

WASHINGTON, *July 3, 1884.*

BENJAMIN HARRIS BREWSTER sworn and examined.

By the CHAIRMAN:

Question. You are the Attorney-General of the United States?—

Answer. I am, sir.

Q. Will you please state when you were appointed to that position?—

A. I think I took the oath of office on the 1st day of January, 1882. I was appointed some time in December, 1881; on the 15th, I think.

Q. Prior to your appointment as Attorney-General were you retained as counsel for the United States in the star-route cases?—A. I was.

Q. Please explain the circumstances of your employment as counsel in those cases, and state what compensation you were to receive.—A. I had a telegram sent to me by Mr. MacVeagh, then Attorney-General, while I was arguing a case up in Mauch Chunk, asking me to come here and take part in conducting the star-route cases, and I postponed accepting the offer until I returned to Philadelphia, and finally until I came to Washington. I had to go up to Altoona, in the mountains of Pennsylvania, to see about another case, and when I got through with that and it was adjourned I came down to Washington. I then accepted the employment of the Government, and subsequently went home and prepared an argument on the application for an information, and studied the cases, and occupied myself for near two months with them, until I came into office as Attorney-General. I was diligent in studying them for I had a great deal to learn about them. I argued a motion to dismiss that information. Then I became Attorney-General, and there my connection with the matter, as employed counsel by the Government, ceased. I knew nothing of the cases except as I had read of them in a general way in the newspapers until Mr. MacVeagh appealed to me. When I came here I had to learn all about them, and I studied them at home and did learn about them.

Q. What compensation did you receive for your services in connection with those cases before you became Attorney-General?—A. I got what amounted to about \$5,000. I know that I received two payments for services rendered.

Q. The contract for your compensation was made with Attorney-General MacVeagh?—A. Yes. Mr. Bliss being in the cases before me, we had a conference upon the subject, and he informed me that Mr. James and he had some understanding with Mr. MacVeagh. The details of that are better explained by Mr. Bliss in his letter which is published in the report I made to the Senate upon what is called the Van Wyck resolution. I believe you have the document here. There are several letters there that allude to the subject of compensation, and there is one letter in particular written to Judge Lawrence, the First Comptroller, in which Mr. Bliss explained the matter and told his story about it. The result of our conference was that Mr. Bliss told me he was to have \$100 a day and his expenses. That I un-

derstood to be the arrangement, and of course, as leading counsel, I charged the same. In fact I charged less than \$100 a day for the time actually occupied by me with the cases, and I charged nothing for expenses. I did not fix the rate of compensation, I did not believe the cases would take so great a length of time as they did—nothing like the length of time they did take subsequently—or I would not have taken the employment, as I could not have afforded to have left my own practice for so long a time. Mr. Bliss told me there was a contract to pay him, and it was understood that he was to have \$100 a day and his expenses before he consented to take charge of the cases. He explained the matter in his letter to Mr. Lawrence. My bills were approved by Mr. MacVeagh, and by the Acting Attorney-General, Mr. Solicitor-General Phillips, and were paid before I went into office.

Q. Mr. Bliss was employed in the star-route cases before you were appointed Attorney-General, and the contract made with him, whatever it was, was made by your predecessor?—A. Yes; and Mr. Bliss so reported it to me; and I had no knowledge in any way of the compensation that he was to get until I derived it from him, shortly after I consented to act with him.

Q. What attorneys were already employed in the cases when you became Attorney-General?—A. Mr. Cook was, and Mr. Gibson was acting in some capacity—a sort of counsel—I did not know exactly in what capacity he was employed. I did not understand that he was to take part in court; I thought he was a kind of a solicitor, arranging the papers and putting them in order. He seemed to have a great deal of authority in the case, and to be the active man.

Q. Do you know why the services of Mr. Gibson and Mr. Cook were dispensed with?—A. I do. The letter in which Mr. Bliss gives an account of the manner in which he was retained is dated New York, November 12, 1882, and appears upon page 11 of Senate Executive Document No. 156, which I now hold in my hand. In that document there are other letters and papers—letters written by me to Mr. Bliss, and by Mr. Bliss to me, upon this very subject, that go to explain all about this matter of the rate of compensation. Now, I beg your pardon; you asked me a question that I did not answer, which was whether I knew how the services of Mr. Cook and Mr. Gibson came to be dispensed with. Mr. Bliss privately to me took serious objection to Mr. Cook and Mr. Gibson, and expressed the opinion that it was not safe to have them in the case, and told many things, the details of which I now forget, which went to the discredit of those two persons, and made it quite uncomfortable and improper to have them in the case. Mr. Cook and Mr. Gibson came to me and complained that Mr. Bliss treated them with a want of confidence; that their usefulness was hurt by the manner in which they were treated—not merely their feelings, but their usefulness in the case. I objected to hearing any private talk about it, and suggested that they meet Mr. Bliss and say what they had to say in his presence. I have the impression that Mr. Woodward, too, at that time, came to see me upon the subject, and gave me to understand in pretty plain terms that it was not safe to continue the employment of Mr. Cook and Mr. Gibson. They withdrew themselves. They proposed to leave, and I was at first rather disinclined to part with them abruptly. I thought it would injure the case to have a sudden break-up of the attorneys in that way, and I wanted to consider what the effect of it would probably be. I consulted with Mr. Bliss, and the more I talked with him the more he insisted upon parting with Mr. Cook and Mr. Gibson at some speedy and convenient opportunity, and the more I came

to think of it I was convinced they ought to be parted with, but I was not prepared to act at the time when they sent me their letters of resignation. Mr. Gibson I did not want to part with as soon as I did. I thought his services were useful and important, and that the objections to him were exaggerated. I wanted to be as gentle as I could with both Mr. Cook and Mr. Gibson; I did not want to deal sharply with them or to form a stern or a harsh judgment. However, the result was that they withdrew; but it was the intention to dismiss them.

Q. Were any special reasons given by Mr. Bliss for desiring the dismissal of Messrs. Cook and Gibson?—A. Yes; among other things the reason was given that it was not safe to trust them with the papers; that he and Mr. Woodward had to lock up the papers, or to change the combination of the lock of the safe, in order to prevent those persons from getting access to them. He stated also that he was of the opinion they were disclosing the information contained in the papers to people upon the other side—to the defendants. Mr. Cook and Mr. Gibson, on their part, complained that they could not get access to the papers; which corroborated Mr. Bliss's statement.

Q. Please state the position that Mr. Bliss occupied in relation to these star-route cases.—A. Mr. Bliss I confided in above all men in the case. When I came into the cases they had been given to him in special trust by the Post-Office Department. I was made to understand that Mr. James had selected Mr. Bliss, and as those prosecutions were, to a certain extent, instigated by the Post-Office Department, and were urged in furtherance of the interests of that Department and of the postal service, I recognized him as the most important person in the cases, as representing that Department, and I so recognized him all the way through. He of the counsel had full and, I believe, exclusive access to the papers, and he seemed to have a more thorough knowledge of the details of the cases than anybody else. At that time I did not know Mr. Woodward's position in the investigation. Subsequently I learned that Mr. Woodward was the person who had been the means of arranging and methodizing the papers and getting them ready for the investigation and for use upon the trial, and that Mr. Bliss was and had been in constant intercourse with him. I was in a peculiar position. After Mr. Gibson and Mr. Cook left there was nobody in the cases but Mr. Bliss and myself, and my impression was when I went into the Department as Attorney-General that I could continue to hold the lead in conducting the prosecution; but I had not been there many weeks, not more than two or three in fact, when I discovered it was almost impossible I could do so and attend to the duties of the Department; that it was impracticable; that it could not be done, because the business of the Department required my constant attention in the office and at the Cabinet. Then it came to be very important to know who should be employed to aid Mr. Bliss in conducting these cases, and I conferred with him about the matter. He insisted in a most peremptory, in a very earnest and urgent letter—I think in two letters, but certainly in one—that he would leave the cases if Mr. Corkhill was not dismissed from the District attorneyship, because he had no faith in him. He said Mr. Corkhill was treacherous; he was in the interest of these star-route people; that he had access to the grand jury, which opportunity he would abuse to the prejudice of the prosecutions; that he was a trouble and a hinderance to the prosecutions, and if he were not removed would be the means of absolutely frustrating the work that he, Mr. Bliss, proposed to do in the cases. I consulted with the President upon the subject, and the President said to

me, as he has said all the way through, "I want this work to be done as you are doing it, in the spirit in which you are doing it; I want it to be done earnestly and thoroughly. I desire that these people shall be prosecuted with the utmost vigor of the law. I will give you all the help I can. You can come to me whenever you wish to, and I will do all I can to aid you." And he did so all the way through, without a moment's hesitation—always stood by me and strengthened me and gave me confidence. I went to the President about this matter of Mr. Corkhill's removal. I did not like the thought of removing Mr. Corkhill. The charge against him was only of a general character. Then, again, I regretted very much that he was not in the cases—not that Mr. Corkhill as an individual was not in the cases, for I knew but very little about him, but that the district attorney here was not engaged in the prosecutions. I thought he ought to take command of them. But it seemed that Attorney-General MacVeagh and the counsel had distrusted him from the beginning, and had refused to give him a position in the cases, and he complained very bitterly to me he had been excluded in a way that touched his honor and humbled him. The President said to me, "If you say this gentleman ought to be dismissed, dismiss him. You are to be the judge of that, and I will respect your judgment." Mr. Corkhill had just then been doing some very useful and, I thought, very effective work as district attorney in the Guiteau case; that case was unfinished, and I thought—I am not merely giving you my thoughts now—I not only thought but said that it would be a very unfair thing and a very impolitic thing to put him out of the district attorneyship when he was in charge of that case, which was one of national importance. The President agreed with me about that, and we both paused and hesitated about removing him. His removal was demanded to take place upon or before a given night; it was claimed it was necessary bills should be signed before the statute of limitations would run. Mr. Ker had that idea in his mind, and he, in conjunction with Mr. Bliss, came to see me and told me that Mr. Corkhill would refuse to sign the indictments when they were presented to him, and would put them in his pocket, and the practical result would be that the statute of limitations would have run. I had to act with promptitude, and I went to Mr. George F. Edmunds and conferred with him. I came away from the conference with the President authorized to have Mr. Corkhill removed and another person appointed, and I went to confer with Mr. Edmunds. I had a personal acquaintance with him and had a high esteem for him, as every person has who knows him. Then he was the chairman of the Judiciary Committee of the Senate, and would have to pass upon the act of removing Mr. Corkhill and appointing his successor, and for those reasons I went to confer with him upon the subject. We talked the matter over, and he agreed with me it would be a very harsh and a very impolitic thing to put Mr. Corkhill out at that time and under the circumstances. Mr. Edmunds also thought the district attorney ought to be in charge of the prosecutions if possible, but agreed with me that, as he had been theretofore excluded, it was too late to talk about that. Then, in conversation, I said, "I will have to obtain somebody to help Mr. Bliss, and I must have some one very soon;" and Mr. Edmunds suggested Mr. Merrick should be selected and employed by me as an assistant. I had already considered that subject, and I agreed with him. Mr. Merrick was selected for the reason that it was considered a proper thing to disassociate the cases from all political feeling, and to select a prominent Democrat to appear in them for the Government with the other coun-

sel already employed, so there could not be any charge of anything being done that was not known to all parties, and so that the prosecutions should be manifestly in the interest of the public and not of any party. Then I wrote Mr. Bliss a note, in which I was a little guarded about suggesting the employment of Mr. Merrick, because, out of a proper feeling of courtesy and delicacy, I did not want to put anybody in the cases without the entire assent of Mr. Bliss, believing that to do so would be both discourteous and impolitic. Mr. Bliss came to me and said he was well pleased to take Mr. Merrick. Mr. Merrick was absent from the city in Chicago. I telegraphed him, and upon his return he came to see me, and Mr. Bliss accepted him at once. Mr. Merrick considered the matter for a little while, a day or two, and then consented to accept the employment, and Mr. Bliss proceeded to instruct him in the cases. Before this, Mr. Bliss came to me and said, "I am in a puzzle about the pleadings in these cases; I cannot draw them; I have not the proper facility at it, and I have not the time." I replied, "Select somebody, and whoever you select I will employ." He came back again and said, "I thought I had a man in New York, but when I come to reflect I am satisfied he will not do, and I wish you would select some suitable person." I thought a little while, but I then recalled only one person I believed was sufficiently skillful as a criminal draftsman, and that was Mr. Ker, who had been assistant district attorney in Philadelphia, and had made considerable reputation there in connection with some very important bills he had drawn and that had met with open public approval of the court and the profession. I knew, too, that he was a faithful, diligent man. I was not intimate with him. I knew him and knew his reputation for respectability, industry, and integrity, and particularly for an aptitude for drafting criminal pleadings. I sent for him and he came, and, upon reflection, I concluded to employ him for another reason. He was a Democrat, and I preferred to commit the preparation of the pleadings in these cases to the hands of a Democrat, because party feeling was running quite high, and as the object of the Department was to conduct those prosecutions in the public interest and not in any way for party purposes, I was determined that if the pleadings should prove to be defective in any way, there should be no room for charging they had been made so intentionally from a desire to protect any of the parties indicted. Therefore, I employed Mr. Ker to draft the pleadings, and he immediately took charge of the matter, came to the Department of Justice, had rooms assigned to him and worked there for weeks with great industry and perseverance, oftentimes till late in the night. I sent for Mr. Corkhill and told him exactly where he stood, and said to him, "It is in my power now to remove you on the spot." As I have already said, he complained with a good deal of feeling of the treatment he had received, and pledged me his honor that he had never thought of doing anything except his duty to the Government in connection with the cases. He did say that if he had been treated in a more considerate manner he would have been better pleased to have been out of the cases than in them, because he had personal relations with some of the defendants, and it would have been an unpleasant thing to have had to proceed against them; but, notwithstanding that consideration, he would have proceeded against them. He said that some of them were people once of high character and high official position with whom he had enjoyed close relations, but that would not have deterred him from performing his duty, and he then said to me, "Mr. Attorney-General, if you will produce those bills of indictments to me, instead

of caviling over them as you have been told I would, I will put my name to them on the spot, in obedience to your command; and if at any time in the course of the proceedings you find me or hear of me doing anything which indicates that I am not faithful to the Government, I am willing to be removed. I want to be tried by you and am willing to abide your judgment, and I am deeply in debt to you for your kindness to me in this instance." I said, "Wait," and I sent up-stairs where the bills were being prepared, and ascertained that they were nearly done, and at a very late hour in the night they were brought down to me. I handed them to Mr. Corkhill, and without a word he put his name to them then and there, that very night. That ended the transaction—that part of it. Mr. Bliss continued in charge of the cases as managing and controlling counsel, going before the grand jury, as I was informed, marshaling and arranging testimony, and working in the cases with diligence and energy, and, I thought, with considerable aptness. Mr. Ker prepared the indictments, as I have told you. Afterwards he went into court, and I was surprised to find him in court taking part in conducting the cases. My impression was, when he was first called to Washington to be employed in the cases, that he would only prepare bills and then appear in court to maintain the legal propriety and fitness of the bills for their purpose, in case any point of legal dispute should arise, any point that might be raised or any issues that the defendants might make in law, and after that he would retire. But the cases went along, and I found that he was appearing in court, and when I asked Mr. Bliss about it he said Mr. Ker had a knowledge of the details of the cases; that he, Mr. Bliss, was obliged frequently to be absent from court for a considerable time before the grand jury, and it was essential to keep Mr. Ker in the cases, because Mr. Merrick could not get along alone against ten or eleven counsel, and that there must be somebody to help him, and he had concluded to keep Mr. Ker. That was the way Mr. Ker came to be retained in the cases. He drifted into the conduct of the cases in court, but he was selected by Mr. Bliss for that purpose, with the concurrence of Mr. Merrick, as I was told, and he was actually engaged in that business for a week or ten days, or perhaps two weeks, before my attention was directed to the fact. When I observed it I asked Mr. Bliss about it, and he told me what I have stated, and I assented to Mr. Ker's continuing to take part in the proceedings in court. In a letter from Mr. Bliss, dated May 14, 1883, I find this passage, which justifies what I have said:

Ker, as you know, was brought into the case for his ability as a draftsman, and has justified your selection. He naturally remained so long as his indictment was to be defended, and so long as others were to be drawn. He has, naturally, drifted into the trials, and has been very useful, especially in the pending trial. Merrick has been essential as able local counsel. As for myself, the knowledge of the facts and papers I acquired in the genesis of the case has been of value.

Now, Mr. Chairman, if I am discursive, check me, and bring me back to the point; do not let me talk too long.

Q. Please state the circumstances under which Mr. Bliss left the star-route cases, and the amount of compensation which you agreed to pay him from time to time.—A. You will find my correspondence upon that subject in this Senate document No. 156. Mr. Bliss continued in the cases until about the time the Kellogg case was to be tried, when I concluded Mr. Merrick ought to leave the case, because there was a charge that he was influenced by malicious feelings toward Mr. Kellogg. Mr. Kellogg himself was very open in his denunciation of Mr. Merrick, as

having prompted the prosecution against him from malicious motives. I knew that was not true, because Mr. Bliss had told me Mr. Merrick knew nothing about the case when it began, but that it was developed in the course of the investigation and hearings before the grand jury, and had said that he, Mr. Bliss, had been accused by his friends of pushing the case a little too strictly, and Mr. Merrick had nothing to do with it. Mr. Merrick was very earnest in his desire to have the Kellogg case tried, upon the faith of what he had learned as to what Mr. Walsh could prove and what Mr. Price could testify. Mr. Woodward also was very earnest upon the subject. When Mr. Merrick left I requested Mr. Bliss to leave also. Mr. Merrick had often offered to leave, but I had retained him because I believed he had some influence over Mr. Walsh, and probably he could persuade Mr. Walsh in some way to come back here and testify when the case came to trial. I thought, too, that he had knowledge of the case that was valuable, and it would be important to keep him. Mr. Walsh was proclaiming by his published letters all the while that Mr. Bliss was favoring Kellogg and was hostile to him, Walsh. Mr. Bliss also was disinclined to remain in the case. He was willing to stay if required, but he did not desire it, and he was disinclined to pursue the case, I thought, and I therefore considered it better, both on account of the saving of expense and for other reasons, to part with both the counsel. Mr. Merrick wrote a letter announcing his withdrawal, and I wrote a note to Mr. Bliss, stating I would dispense with his services, and he retired. He sent a bill to the Department in the latter part of 1883 and insisted upon its being paid. It was for \$9,200. It was for services down to November 19, 1883. The bill was approved by the Auditor of the Department and passed over to the Comptroller's Office, and the Comptroller called upon me to have Mr. Bliss apportion his bill. You will find the correspondence on the subject in this Senate document. Mr. Bliss resisted that. He said the Comptroller desired that the bill should be apportioned between two fiscal years, and to this he resolutely objected, but it was evident from the face of the bill the services had been rendered within the two fiscal years, and yet he resisted the Comptroller's demand. You will find in his letter very urgent complaint about it, and he was importunate to have the bill paid in the present fiscal year and was not pleasant—indeed I thought he was very uncivil about it. However, I tried to placate him. I wanted to have peace with everybody in the case, and did not wish to have our relations disturbed, but I gave him to understand in a letter that it was a matter of indifference to me in what fiscal year the services were paid, but that I could not rule the Comptroller, I could not regulate his judgment, and the judgment of the Comptroller was the judgment of the law upon the subject, and, therefore, the apportionment ought to be made. After resisting the requirements of the Comptroller in the way I have described, he did apportion \$4,700 of the bill in the last fiscal year and \$4,500 in the present fiscal year. I was away at New Orleans arguing a case for the Government, and the Solicitor-General paid Mr. Bliss \$2,500 out of the amount which he then said was due for the present fiscal year. When I came home and investigated the bill it struck me it was a very peculiar thing Mr. Bliss should be charging for services in the present fiscal year. I did not see where the services were rendered, except some service in the Kellogg case and some in the matter where Mr. Spencer was arrested and brought here to be punished for contempt of court in avoiding the subpoena. I called upon Mr. Bliss by letter to explain it. Most of these services, which I assumed had been rendered in the last trial of the Dorsey case, had been rendered in the last fiscal year.

Mr. Bliss took issue with me, and was very angry and cross in his letters upon the subject, and almost refused to answer my inquiry. It ended in his giving me this statement (all of which appears in his letters) that he had gone to New York, and had taken the papers of the untried star-route cases—the criminal cases—and had inspected them there in his office with a view to determining what ought to be done with them in the future, and that the charges for services in the present fiscal year, which came to \$4,500, were for that service. Upon the 11th of February I wrote a letter to Mr. Bliss, which is published in this Senate document, in which I said I could not allow those charges; I never had authorized him or anybody else, at that expensive rate of compensation, to take those papers to New York and examine them; that I had not yet determined there was a necessity for it; if the papers were to be examined in that way the other counsel ought to have done it with him, and they might, with like propriety, have done it alone as he had, and if they had each done the work in the same way that he alone had done, I would have a very extravagant bill to settle at the rate at which he charged for his services, and, in short, I must decline to allow the bill. After this letter of mine dated 11th February, refusing to allow this charge, upon the 18th of February, Mr. Bliss made a restatement of his case. His letter making the restatement is also in this Senate document. In that restatement, instead of putting \$4,700 of his bill in the last fiscal year, as he had done in the first apportionment, he put \$6,400. He changed his whole apportionment and brought over a portion of the amount from the present fiscal year to the last fiscal year. After he had my letter of the 11th of February, on the 18th of February he made the amount due him on the last fiscal year to be \$6,750, done by him evidently to escape the effect of my ruling rejecting his claim for these services said to have been performed by him in New York. This correspondence occupied some time, and Mr. Bliss complained very bitterly of the delay and wrote me very rude letters about it. I thought he had received a large sum of money from the Government, and could afford to wait until I could fully investigate the matter. I gave it to different officers of the Department, whose duty it was to make such investigations, and they investigated it and made reports to me. I then took it up myself, and made it the subject of a special finding, and here is a copy of that finding taken from the record, which I will ask to have appended to my statement. You will read I there told him he had done a very improper thing; that it was experimenting with the Department; that he, in the first place, had made his apportionment deliberately; that he knew what services he had rendered in the last fiscal year, knew all about it, yet he had now changed the amount from \$4,700 to \$6,700, the practical effect of which would be to avoid my ruling of the 11th of February. I told him I thought, and believed, he had been overpaid, and that I would not allow that account, and I did not. He then, at or about that time or a little before that time, presented a special, distinct, account of \$2,000 and some odd for services, as he said, rendered in the Spencer case and the Kellogg case, and I reduced it, as you will discover in the report I have handed you

That is all I have to say about that question of compensation. I have here a sort of tabular statement which you may have for your record.

[The statement here referred to will be found among the papers appended to this testimony of the Attorney-General.]

Q. That account is still unadjusted?—A. There is \$4,700 due to him on last year's account. It is unpaid.

Q. But allowed?—A. Yes, sir; it is allowed. He claimed to make it

\$6,700 by this change which I have mentioned. Then the other award which I made to him by that opinion which I have given you has been paid, I believe; I am very sure it has been paid. He has accepted the result of my finding. He did not, by any application, dispute my decision; he accepted it.

Q. There have been some statements made before the committee with regard to what occurred at a conference at your residence, when Mr. Bliss and Mr. Merrick and Mr. Ker submitted to you the question as to the acceptance of Price as a witness. Will you state whether it was understood at that interview that your decision was to be final as to the acceptance of Price as a witness for the Government?—A. My attention was called the other day to the testimony on page 303 of your record, (which is about the only page of it I have read). There is on that page a very fair statement by Mr. Bliss himself of what happened there. At that time there was quite a contention between those gentlemen, and Mr. Bliss and Mr. Merrick got very warm. It was in my house, and I thought I ought to stop it. They both threatened to leave the case; Mr. Merrick if the prosecution did not go on, and Mr. Bliss if it did go on; and I checked them both. I said, "Now, gentlemen, just stop, if you please. I cannot consent to this. It is in my own house, and I must be very careful, for I want to treat you with entire kindness and courtesy, but there is something due to me officially and to the case, and it is not proper for you to talk in that way. Neither of you will leave this case." They both behaved very well and said civil words to each other, and expressed their regret for what had occurred, and I said, "Never mind; there is nothing to regret; but I want to prevent this matter going any further"; and the result was the restoration of a pleasant state of feeling. Then Mr. Bliss said, after they had discussed the whole case, that if, after I had seen Mr. Price's affidavit, I would say the case should go on, he would acquiesce. He has testified, as appears on page 303 of your record, that he subsequently did acquiesce, and he believed I was right in what I did; although he did shortly afterwards write me a note which I believe has been put in evidence here by him in which he stated that he respectfully protested or objected to the conclusion at which I had arrived. On page 303 he says as follows:

The moment I learned of the production of those papers and what was in them, I stated to the Attorney-General that in my opinion that changed the position of the case entirely, and that it was a proper one to be proceeded with, and that it was proper to let go of Price and proceed against Kellogg, and I have not changed my mind or view upon that subject.

That, however, did not change his position in the case. I have been told that it was said here and elsewhere I had instigated some assaults upon Mr. Bliss. As to that, I have only to say it would be a very unworthy thing for me to do, and that I never did it in any way, and I wish that nothing reflecting on Mr. Bliss had been said or any assaults made upon him as counsel in the case. The statements that were made about him and his conduct I had no knowledge of whatever. Mr. Ker had not seen me for a month or two, nor had I communicated with him directly or indirectly in any way before he gave his testimony, and I had no idea he would give any such testimony. I have abstained from talking with any of these gentlemen about these matters; if I had known in advance Mr. Ker intended to give any such testimony, I would have suggested that the courtesy and good feeling that should exist between counsel engaged in the same case ought to modify what he had to say, not to induce him to conceal the truth, but to abstain from

saying harsh things. I wish those things had not been said for the sake of the proprieties of the case. But to come back. Mr. Merrick called upon me a few days ago and told me, or, may be I read it in the report in the newspaper, that Mr. Bliss left the Dorsey case when it was on trial and was absent for a day in consequence of my ruling as to the acceptance of Price as a witness in the Kellogg case. I never knew that fact until I was told it or read it the other day. I never knew that Mr. Bliss had left the case. I am told Mr. Merrick said that Mr. Bliss gave as a reason that he considered I had acted with a want of courtesy towards him, in not giving him notice of my intention to take Price as a witness. I never intended any discourtesy to Mr. Bliss. I knew I had a perfect right to decide as I judged right about that matter, and it was so understood at the interview which took place at my house, at which, as Mr. Bliss himself has testified, the question was left to me, so that there was no occasion to call upon him afterward or to make any explanation. It was left to me to say whether the case should or should not go on, and when Mr. Bliss wrote me the letter objecting to the decision I had made to have the case prosecuted, he never complained of any discourtesy and I never heard of it at all until Mr. Merrick's testimony was given here. If I had known of it at the time I would, of course, have said to Mr. Bliss, "There is no discourtesy intended, and you ought to know that, and I hope you will not think there is."

Q. Did Mr. Bliss oppose taking any steps to secure indictments against Mr. Kellogg for any reason, and if so, what were those reasons?

—A. I know nothing whatever upon the subject, except what Mr. Walsh has published.

Q. Did Mr. Bliss say to you, or write letters to you, saying that you should consult anyone in regard to the effect of the prosecution of Kellogg from a political point of view?—A. On December 20, 1882, he did write me a letter upon that subject, as follows:

Mr. Bliss to Mr. Brewster.

POST-OFFICE DEPARTMENT,
Washington, D. C., December 20, 1882.

MY DEAR SIR: As to the matter which I spoke of to you this a. m. as to the using of Price as a witness, why not consult with Secretary Chandler on the political view of it? Of course you would not consult any one in the legal aspect. But the matter may be productive of great difficulties. Merrick may get ugly if he does not have his own way and make trouble in the case on trial. At the same time we cannot, any of us, allow Price who is indicted and guilty to escape unless he gives us some one more guilty and does it *certainly*. Without Walsh, Price is of little or no use to us and Walsh is not now available to us. With Walsh even we do not get a clear case through Price's assistance against any one, except, perhaps, Brady, and situated as we are now we do not need to give up any one to get proof against Brady in *another* case than that on trial. Price cannot aid us in the one on trial.

Merrick has become greatly interested to attach Kellogg. I *think* politics affect him. He may claim to have promised Price protection. I think in fact he has done so only conditionally. He certainly had no *legal* right to do it without consulting you and getting authority from you. He had no *moral* right to do it without consulting me. I think in fact he has not done it, but he may be willing to have it supposed he has, as being more likely to get your approval of something he *has* done than your consent to do the same thing.

The matter may come to a shape where you will have to "put your foot down," but I think the wise way is to temporize, at least till this trial is over. At worst it may become necessary to accept anything Merrick has done in promising Price immunity, but that does not involve consenting to prosecutions against others with Price's assistance unless your judgment tells you that such prosecutions ought to be instituted.

I am *very* anxious about the whole matter.

Yours, truly,

GEORGE BLISS.

Hon. BENJ. HARRIS BREWSTER.

Q. Did you make any reply to that letter of Mr. Bliss?—A. No.

Q. Did you act upon the suggestion contained in it?—A. No. I just put it aside, for I was not pleased with it. It was a very difficult thing for me to deal with this subject. Here was a gentleman, Mr. Bliss, in charge of these cases, enjoying the confidence of the Post-Office Department, and having knowledge of all the papers in the cases, and really having great usefulness in the prosecutions, and, of course, I did not want to have any conflict with him of any kind. I could not dispense with Mr. Bliss. So, also, when the amount of the payment that he demanded was a subject of criticism, I could not dispense with him; although I did admonish him he ought to abate his charges because the amount would be criticised and complained of. I thought any rupture with him would be a great shock to the prosecutions, and I therefore believed it was both my duty and my policy to keep him in the cases and to avoid any such conflict. These things occurred and I did not like them, but I thought it would be unwise to have any controversy with him.

Q. He suggested the propriety of consulting somebody as to the political effect of the prosecution of Senator Kellogg; did you have any such consultation with anybody?—A. No, sir. I made up my mind that I would not permit anybody to talk with me upon the political relations of this case or of any other case. I thought it would be a scandalous thing for me to do. I did not come into the office of Attorney-General to dispense the justice of the United States upon political considerations. I would rather never have taken it—I would rather leave it than do that.

Q. Mr. Walsh has stated in his testimony that you have some correspondence with Secretary Chandler in regard to this case. Is that correct?—A. Yes. I had some correspondence with Secretary Chandler in regard to this case. You have called for those letters, and I will give them to you. Mr. Walsh wrote a letter to the President, which will speak for itself, and in that letter he charged or intimated, among other things, I was a party to Mr. Bliss's determination to suppress this case, and I did not intervene, as I ought, to compel Mr. Bliss to do otherwise: and the letter was intended to leave an impression upon the public mind that I was participating in an attempt to strangle the case. Among other things, Mr. Walsh charged in the letter that "a member of the Cabinet had a conference with Mr. Bliss upon the subject, the purpose of which conference was to suppress the case." I wrote to Mr. Bliss about that. I thought it my duty to call his attention to it. I did not believe it—did not believe a word of it—but I still thought it my duty to call Mr. Bliss's attention to it, and I wrote him a letter about it. That letter is here. It did not reach Mr. Bliss promptly, in consequence of his coming to Washington at the time when the letter went to New York; and then I believe the letter came back here just when he returned to New York, and I was absent for some days; and the result was his reply was delayed. When he did reply he wrote in the most emphatic way, denying the charge, and said a great many things in that letter—a letter which will speak for itself. He intimated, among other things, that Mr. Walsh was a witness for the Government, and I ought to be very careful not to let his denial or anything else to the prejudice of Walsh be made known, because Mr. Walsh would take advantage of it as an excuse for not appearing, for he believed Mr. Walsh was really in the hands of the people who were opposed to the Government. Now, I am speaking of this from recollection, and I cannot quote the letter accurately, but that was the sense

of what he expressed in the letter, and he denied all that was alleged against him. In the mean time it seems Mr. Chandler—I may as well state it because it is in my letter to him—spoke to the President and said he wished to take notice of this charge, and wanted me to write him a letter asking him whether the charge was true. When I was applied to about it, I said, “Walsh’s letter does not name Mr. Chandler; there is no Cabinet officer named; it speaks merely of a Cabinet officer.” Still I was given to understand that Mr. Chandler believed that it was intended for himself and he wanted me to write him a letter. I delayed writing a letter because I was waiting for the reply of Mr. Bliss. By and by Mr. Bliss’s reply came and I took it and wrote a letter myself to Mr. Chandler stating why it was I wrote to him, apologizing for doing it, and saying it would be a very indecorous thing for me to do if he had not expressed a desire I should do it, and I would not do it even then but for the way in which the expression of his desire had been conveyed to me. Then I said to him, as an act of civility, that he need not regard Mr. Walsh’s statement; from what I could learn of Mr. Walsh he was a shameless kind of person; that I had been waiting for Mr. Bliss’s reply, and I had now received it and sent him a copy of it. I also said to him, “You will please observe that Mr. Bliss gives a caution as to the use that is to be made of his letter or of anything that he says about Mr. Walsh—urges we ought to be careful that it shall not become public, because if it does Mr. Walsh will take offense and make it an excuse to avoid appearing as a witness.” I got a reply from Mr. Chandler in which he positively denied the whole matter, and concurred in Mr. Bliss’s suggestion as to the caution that should be observed not to let it become known to Mr. Walsh there were any remarks made about him or anything to his prejudice, lest it should give him an excuse to keep away. There the matter rested. I never showed that letter to any human being; I am sure I did not. It was locked up among my private papers. In the summer of last year, when I was away, I got a letter from Mr. Walsh, which was subsequently published, as all his letters have been, stating I had written such a letter to Mr. Chandler, in which I had reflected upon him, and intimating it was a very indecorous thing for me to be commenting unfavorably upon him when I depended upon his testimony, thus showing a knowledge of the letter, and demanding the production of it. I never answered the letter of Mr. Walsh. Mr. Chandler had a like letter sent to him, which was not answered. How anybody came to a knowledge of those letters you have called for I do not know, for they were in my special custody, kept by me privately, and not put upon the records of the Department—purposely kept from the records for the reason Mr. Bliss assigned in his letter, that it was not prudent to put anything of that kind in a public place where it could become known to Mr. Walsh, and give him an excuse to remain away. You have called for the letters, and I have them here and will give them to you.

The CHAIRMAN. They were called for by a resolution of the committee.

The WITNESS. They were, and they have been ready for some time, but I thought that by your leave I would keep them until I would come before you to testify.

The letters were produced and put in evidence, as follows:

Mr. Walsh to the Attorney-General.

NEW YORK, November 3, 1882.

SIR: In the month of June, 1882, a subpoena was served on me in this city to appear before the grand jury of the District of Columbia to testify in the matter of the

United States *vs.* Brady *et al.* In accordance with this summons I appeared before the grand jury whose term expired June 30, 1884. Mr. George Bliss, counsel for the Government, was present during my examination. On my testimony an indictment was found by the jury against ex-Assistant Postmaster-General Brady and mail contractor James B. Price for conspiracy to defraud the Government of the United States. During the following month—July, 1882—one of the special counsel for the Government in the star route cases, with whom I then had no acquaintance personally, called on me in his official capacity, and during the conversation recited that which he had heard rumored as having been the tenor of my testimony before the grand jury, whose term had just then expired, and asked of me confirmation. I then related to him substantially my testimony, whereupon he expressed the greatest indignation and astonishment at the action of the grand jury in not including in the Brady-Price indictment, Senator Wm. P. Kellogg. I inquired of him if this was the first official information that he had received of the character of my testimony, and to my surprise he said it was.

A few days after this interview the grand jury (a new body) was called together in extraordinary session; indeed, the gentleman after listening to my recital, said he would have the jury called together immediately. In the mean time I had been subpoenaed to appear as a witness before the traverse jury in the suit of the United States *vs.* Brady, Dorsey *et al.*, and while awaiting to be called, I was summoned to appear before the grand jury of the District of Columbia bringing with me my books and papers. I was before this body the greater part of two days giving my testimony and exhibiting original papers, &c., with the result, as is known to all the world—a result as insulting to all law and justice as it was mortifying to me, reflecting as it did on my veracity. The purposes of this negative action, *i. e.*, not finding an indictment, were, in my opinion, two. First, to the end that a distinguished Senator should escape indictment, and, secondly, to vitiate my testimony, which I was to give before the traverse jury in the case of Brady *et al.*, then on trial. That influences of a most potential character were brought to bear on the grand jury to accomplish such a result, unhappily, does not admit of a doubt. Manifestly testimony which was considered ample on which to find an indictment against Brady and Price had not been deemed strong enough to reach a Senator. This was the finding of the first grand jury whose term had expired June 30, 1882. The finding of indictments against comparative pigmies, the *oi polloi*, and allowing official giants to escape had become embarrassing, for some jurors revolted against other system on the first jury, and hence this latter grand jury, to avoid similar complications, determined to indict no person. In order to furnish them, if possible, with something like a reason for not finding an indictment in accordance with my testimony, the conspirators on the grand jury had presented to them by their associates outside, for the undoubted purpose of influencing the minds of their fellow members, a copy of the testimony in the case of Spofford *vs.* Kellogg, a contested election case in which I had testified. My testimony before this jury was direct and positive, and supported as it was by documentary evidence, simply overwhelming. What could possibly be the reason, then, for the remarkable action of this grand jury? Were they dazed by reason of the high official position of one of the persons against whom my testimony bore most heavily? Or could it be that they concurred with the special prosecuting officer of the Government, who, in the grand jury room, gave expression to the opinion “that it was a serious matter to indict a Senator of the United States?” Were the jurors influenced by the Spofford-Kellogg testimony? Who directed them to inquire into the case of Spofford *vs.* Kellogg? Whether they were or were not influenced by the testimony, the criminal object had in view by those who brought it there was to influence them. Precisely the same object which, the prosecution say, William H. Dickson had in view when he, as foreman of the traverse jury, read to its members his statement of the alleged attempt of the Government to bribe him, and for which attempt to influence the minds of the jury he is now being prosecuted. I assert that whoever brought into the room of the grand jury the Spofford Kellogg testimony is far guiltier than William H. Dickson. That this book was there does not admit of doubt, as counsel for the Government, Mr. Bliss, will bear me out.

In behalf of justice, and of law and of order, I call upon you, as the highest law officer of the Government, to discover who it was that brought into the grand jury room the testimony in the case of Spofford *vs.* Kellogg; who it was on that grand jury that entered into the conspiracy to protect these men from indictment, and, by rendering me discreditable thereby, tending to break down the case of the Government against Brady, Dorsey, *et al.* This is a discovery, sir, which the Government owes me and owes to itself.

You will please recall the condition of the Government's case at this juncture; I mean that against Brady *et al.* To say that it was in extremes would be untrue, for it hardly had life enough to die; indeed it was generally understood that a motion to dismiss it would be listened to by the court. A material witness of the Government, indeed an officer thereof, then under subpoena, was moved, as he has said, to go away about this time, for the reason that he was satisfied the case would be dismissed, and

for the further reason that he did not believe the prosecution was in earnest. This gentleman's official, commercial, and social relations with members of the administration gave him exceptional opportunities for informing himself. I take this from the public prints as going to show the condition of sentiment about the time that this grand jury resolved to protect these criminals. Everything was against the prosecution, hence how necessary it became to break me down in behalf of the defendants in court, and those who ought to have been defendants, that were not yet at its bar. As John A. Walsh, I was not personally known to a member of that grand jury; to them I was simply an important witness for the Government, and as such, and in the interests of crime, they showed their bias against me from the moment that I appeared in the jury room. Such of them as did not listlessly tilt their chairs against the walls, resolved themselves into cross-examiners in the interests of the persons against whom I was testifying, with the apparent motive of trying to exhaust the Government's case in the grand jury room. I again repeat that it behooves the Government to find out the person or persons who first informed a member or members of this grand jury of the existence of the Spofford-Kellogg testimony, and the member or members of that body who brought it into the jury room. I emphasize this, not because there was anything in that testimony on which to base such an infamous result, but because it will be the first step toward developing the connection between the conspirators in this case. Inasmuch as this book came from some one of the public libraries, surely it ought not to be a difficult task for this great Government, and such action, believe me, would go far towards evidencing that witnesses for the Government would have at least its moral support, a condition it pains me to say that it does not enjoy, in my mind at least, for I have yet to see the first evidence of any support of any kind from it. Simultaneously with the extraordinary action or rather non-action of this grand jury, now holding session in Washington, a daily paper of that city, conducted in the interests of the star-route conspirators, gave joyous expression to the information that a grand jury had unanimously refused to believe me on oath. Branded thus by a corrupt grand jury, in furtherance of this conspiracy, as one unworthy of belief, I literally stepped from the threshold of their room to the witness stand in open court to be there taunted by counsel for the defense as one whom the grand jury did not believe. Such in brief was the character of my introduction to the court, to the traverse jury, and to the people of this country. I do assure you, sir, that nothing but my own sense of duty and self-respect sustained me in such an ordeal, the most trying of all ordeals for a man of honor. Indeed, while I was on the witness stand the leading counsel for the defendants asked me contemptuously, "If I was the same Walsh that had appeared before the grand jury?" In the meantime I was assailed in column after column of the vilest abuse, and that, too, in a paper the control of whose columns it was sworn to in open court, was exercised by a man who was then, and is now, the occupant of a lucrative office under the same Government in whose interests I had been summoned to appear as a witness. At this period, when I felt as though this combination of conspirators, composed as it was of the grand jury, the defendants in court, together with such other allies as rumor assigned being in sympathy with these robber barons, were about to crush me, I bethought of appealing to that national jury composed of millions of freemen who in their honesty could not be influenced. Through the medium of a free and enlightened press I addressed myself to this jury, which evidence being weighed has resulted in a moral verdict of guilty against these men; I am convinced that but for the aid extended the cause of justice by the press of this country, these conspirators would have triumphed. I have been informed that you have expressed the opinion that my testimony before the traverse jury saved the prosecution from defeat, in a case which special counsel had selected as the strongest, albeit well informed people never agreed therein with said counsel. Whether or not I rendered the Government any service in these cases it is not for me to say, but such aid as I have contributed has not been without great sacrifice to me in many ways. Because of my appearance as a witness against these men I have been criminally libelled in the District of Columbia while under subpoena from its judiciary, and I have yet to see the first evidence that the Government intended to protect me. I have never witnessed such terrorism as was exercised against witnesses in this case. I have been informed by counsel that the persons who have been engaged in libelling me are criminally liable, and yet, sir, I say to you in all candor, that I am practically unable to obtain the slightest legal redress in the capital of the Republic.

All that I have set forth in this communication, and more, has been printed by the great journals of the country, touching the present grand jury of the District of Columbia, and it is in no spirit of sentimentalism for myself alone that I beg of you to take cognizance of the conspiracy which has been entered into by this body. Some member or members of this jury conspired to protect certain people from indictment; this must be obvious to you. If it was really "a serious matter to indict a Senator of the United States," why did they not so resolve and let it go to the world that the Senate of the United States was an asylum for violators of the law? If this jury feared trenching upon the divinity that, in their minds, hedged in a Senator, why not

so proclaim and then the people of this country would know and understand that there was a body of men in the Republic who were not amenable to its laws? Why endeavor to stamp me with reproach, thus affording aid and comfort to the enemies of the Government whose interests they were sworn to protect?

In giving my testimony against these men I was actuated by no feelings of hostility, and in no sense of the word was I a voluntary witness. As a matter of fact, with the exception of one or two of the defendants I scarcely had any acquaintance with them, indeed, some of them I had never seen until I appeared as a witness, and such feeling as I had was rather of sympathy than otherwise, for as a body I regarded them as petty offenders compared with those, who, having had recourse to precisely the same methods of plundering the Treasury of the United States, had gone unscathed, or whose gigantic frauds have since been referred to arbitration, as I have read in the public prints.

Whatever of prestige or material benefit that will redound to the credit of the gentlemen engaged in this prosecution, none can ever reach me by any possibility. I am painfully aware that thus far I have reaped naught save abuse, and have been made the object of a conspiracy by a body acting under the forms of law, a body supposed to be engaged in conserving the interests of law and order, that this is a fiction, however, their acts have proved. I have endeavored to point out to you wherein I conceive that some member or members of the present grand jury of the District of Columbia have violated the law and their oaths, and I now ask that you, for the protection of the interests of the Government and for the protection of its witnesses, take such steps as will bring to light the extent and ramifications of this conspiracy, and prosecute the offenders as the law directs.

Yours, respectfully,

J. A. WALSH.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General of the United States, Washington, D. C.

Mr. Brewster to Mr. Bliss.

DEPARTMENT OF JUSTICE,
Washington, November 12, 1882.

DEAR SIR: With this I inclose you copy of a letter received from Mr. John Walsh, which I think should be brought to your knowledge.

Very respectfully,

BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
Special Counsel, &c., 160 Broadway, New York, N. Y.

Mr. Brewster to Mr. Bliss.

DEPARTMENT OF JUSTICE,
Washington, D. C., November 30, 1882.

DEAR SIR: * * * I also, some weeks or so ago, sent to you a copy of a letter from — Walsh, transmitted to me. I have not heard from you since then. Will you please give me a reply to it? With this I also send you an interview published by Mr. Walsh in the newspaper since he sent that letter to me, and since I sent it to you. They should both go together, it seems to me. Much that is complained of by Mr. Walsh in that letter has already been disposed of. That the complaints were groundless at the time the action of this Department and of the President has since shown.

The Saulsbury matter and the Kellogg matter are both of great importance, and I desire you to give them both your attention, and furnish me with a reply that will make a proper record upon the subject for the Department and for yourself, so that if hereafter it is made the subject of public complaint or official inquiry the records of the Department will show exactly the real facts of the case, free from these clouded misrepresentations and misinterpretations of official and personal action.

I am, sir, with great respect, your obedient servant,

BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
*Special Counsel for the United States in the Star-route Trials,
No. 160 Broadway, New York City.*

Mr. Bliss to Mr. Brewster.

WASHINGTON, December 5, 1882.

DEAR SIR: Your letter of the 30th contains the first intimation I have received that any answer was desired to your favor referring to me the letter of John A. Walsh, complaining of the action of the grand jury recently discharged. I understood it to have been referred to me—by copy—only for my information, as has been done in so many other cases.

As you know, I think the grand jury should have found an indictment; at the same time it was their right to pass upon the evidence. It was possible for them to accept as true all that Mr. Walsh said, and still to think that a link was missing, and, giving to the question of indicting a Senator of the United States—sensibly or insensibly—more of scrutiny than they would have given to the case of one less prominent, to refuse to find a bill. This result might have been, in a measure, precipitated by the fact that Mr. Walsh made manifest his distrust of the grand jury, and gave his evidence in a manner which did not secure for it the full weight it was in my opinion entitled to.

As to the introduction into the grand jury room of the book referred to by Mr. Walsh, I am unable to agree with him as to its legality. From what I saw while waiting in the anteroom I am satisfied that the grand jury sent for it to the district attorney, and that the latter procured it from the Congressional Library. At any rate, the copy produced bore the stamp of that library. The sending for the book undoubtedly indicated information given to or possessed by some of the jury. It probably indicated bias against Mr. Walsh, but in view of the right of the grand jury to seek its evidence within broad limits, it does not seem to me that the proceeding was illegal.

As to the interview with Mr. Walsh, of which you inclose me a copy, I can only say that I do not think it calls for answer, and if it did I should not think it wise to answer it. Mr. Walsh is an important witness for the Government, though not so important as he was. He has been made to feel the hostility of those against whom he testifies. He feels impatient, injured. In that frame of mind he says things that do injustice to others and which he will soon be prompt to admit are unjust. Under these circumstances, I do not think it wise to have any controversy or to aggravate feelings already disturbed.

Your obedient servant,

GEORGE BLISS,
Assistant Attorney.

HON. BENJ. HARRIS BREWSTER,
Attorney-General.

Mr. Bliss to Mr. Brewster.

POST-OFFICE DEPARTMENT,
Washington, D. C., December 20, 1882.

MY DEAR SIR: As to the matter which I spoke of to you this a. m. as to the using of Price as a witness, why not consult with Secretary Chandler on the political view of it? Of course you would not consult any one in the legal aspect. But the matter may be productive of great difficulties. Merrick may get ugly if he does not have his own way and make trouble in the case on trial. At the same time we cannot, any of us, allow Price who is indicted and guilty to escape unless he gives us some one more guilty and does it *certainly*. Without Walsh, Price is of little or no use to us and Walsh is not now available to us. With Walsh even we do not get a clear case through Price's assistance against any one, except, perhaps, Brady, and situated as we are now we do not need to give up any one to get proof against Brady in *another case* than that on trial. Price cannot aid us in the one on trial.

Merrick has become greatly interested to attach Kellogg. I *think* politics affect him. He may claim to have promised Price protection. I think in fact he has done so only conditionally. He certainly had no *legal* right to do it without consulting you and getting authority from you. He had no *moral* right to do it without consulting me. I think in fact he has not done it, but he may be willing to have it supposed he has, as being more likely to get your approval of something he *has* done than your consent to do the same thing.

The matter may come to a shape where you will have to "put your foot down," but I think the wise way is to temporize, at least till this trial is over. At worst it may become necessary to accept anything Merrick has done in promising Price im-

munity, but that does not involve consenting to prosecutions against others with Price's assistance unless your judgment tells you that such prosecutions ought to be instituted.

I am *very* anxious about the whole matter.

Yours, truly,

GEORGE BLISS.

Hon. BENJ. HARRIS BREWSTER.

Mr. Brewster to Mr. Bliss.

DEPARTMENT OF JUSTICE,
Washington, December 27, 1882.

SIR: With this I send you a letter written by one J. A. Walsh from New York, dated the 18th of December, 1882, and addressed to the President. That letter, by the President's direction, was referred to me on the 21st of December. Because you were absent I have not sent it to you until this date.

As it contains throughout charges and criticisms upon your conduct, I desire to call your attention to it, and ask a reply from you to me, so that I may be able properly to report to the President. Without such reply I cannot make such report, for all of the matters referred to in it are within your personal knowledge, and were under your direction. I had no part in what was done, or exact knowledge of what is asserted to have been done, and I must look to you for such explanations as will instruct me and enable me properly to advise the President. Allow me this reply at your earliest convenience.

There is an allusion in the letter to a Cabinet officer. I know of no Cabinet officer who is open to any imputation in this business. It certainly cannot mean me, for I must assume, as Mr. Walsh writes very freely of me when he has occasion to use my name, that he would have said he was writing of me when he refers to a Cabinet officer "who gave to a certain grand juror in violation of the statute" the "Spofford-Kellogg testimony." I never gave any testimony of any kind to any grand jury in this District, nor did I know nor do I now know of any Cabinet officer who ever did. In fact, all I know of what happened before that grand jury was only made known to me after it happened, and all I do know or ever have known is the general result.

As this letter contains charges and statements and criticisms relative to what did happen there, or ought to have been done there, and of which I am wholly ignorant, and in which you are interested, and over which you had special charge, I now call upon you for this reply to all that Mr. Walsh has said.

Very respectfully,

BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,

Special Assistant Attorney for the United States in the star-route cases,

Washington, D. C.

Mr. Bliss to Mr. Brewster.

NEW YORK, January 2, 1883.

DEAR SIR: I received, just as I was leaving Washington on Friday, your favor of the 27th ultimo, transmitting a copy of a letter from John A. Walsh to the President.

Mr. Walsh states that he addresses the President because you have not answered a letter which he addressed to you in November. This last-mentioned letter was referred by you to me, and I beg to remind you of the observations which I made upon it in a letter I addressed to you at that time.

Mr. Walsh was, at the last trial of the case of *United States v. Brady and others*, an important witness for the Government. He has come to regard himself, as his letter to the President shows, as an essential witness, and disposed to dictate to those in charge of the prosecution what they shall do and how they shall do it, and to set up his own views both of law and expediency as better than those of the gentlemen who are charged with the responsibility of the "star-route cases." He regards his own conduct and character as so pure that he can make charges against them, not only without evidence, but in the face of the very evidence to which he refers. He has been subjected to much abuse from the defendants in the case on trial and their friends, and therefore some irritation on his part would be excusable, though it hardly justifies him in attacking those who have defended him. There is much in his letter

which induces me to believe that he has fallen under the influence of those interested against the Government, who are catering to his vanity and desire for rev holding out to him the hope of pecuniary advantage. Bearing in mind these circumstances, I refrain from characterizing the letter as a whole in the terms which it would seem to deserve at my hands. While, for reasons not necessary to be gone into here, the Government is not in a position where the testimony of Mr. Walsh would be as important as it undoubtedly was on the former trial, yet he is still a desirable witness, and I do not feel that I ought by any expression of my personal feelings either to tend to discredit him as a witness or to intensify his present position of dissatisfaction with those whom he claims to desire to aid. But at the same time I reserve the right to make a further reply when no possible harm can come to the prosecution by my so doing.

Mr. Walsh expresses his personal distrust of the sincerity of the prosecutors and his dissent from the judgment exercised by them in selecting the particular case to be first tried. Without pausing here to suggest that he is not in a position to judge as to either fact, and not by education or experience competent to judge, I may observe that after he testified on the last trial he voluntarily stated to me that though he had at one time doubted whether we had selected wisely, he was then thoroughly convinced that we were right.

Mr. Walsh complains that there was some conspiracy or contrivance by which a former grand jury failed to find an indictment upon his testimony. He makes a special and gratuitous fling at some unnamed member of the President's Cabinet, but does not dare to name him or to assert what he did. Indeed, he refers to the matter only as a report or rumor. The only act of any one indicated by him is the introduction into the grand jury room of a book purporting to contain evidence given before a committee of the Senate.

As to the latter, I have already expressed my views in my letter in reply to Mr. Walsh's communication to you to which I have referred. The book was, as I infer, sent for by the grand jury. They had, as I think, a right so to do, but whether this was so or not, there is no evidence that it was anything but an error of judgment, and certainly not a transaction which should lead to a general denunciation, not only of the grand jury, but of the prosecution, and of you because you do not proceed to investigate and indict the grand jury or others.

A brief statement of the history of matters will serve to dispose of much of what Mr. Walsh says:

Mr. Walsh was a witness before one grand jury in May or June. Upon his testimony and that of several witnesses summoned from Texas, James B. Price and Thomas J. Brady were indicted for conspiracy in connection with certain mail routes in Texas. In the course of that examination before the grand jury, Mr. Walsh, in referring to certain post-office drafts, casually mentioned that they were brought to him by a Mr. Kellogg, and it was only accidentally that it was brought out whom he meant. Neither I nor any one representing the Government had up to that time ever heard the name of Mr. Kellogg in connection with the matter, and he was not then, as I understood it, mentioned as a person whose connection with it was in any sense criminal. Some days after the grand jury had adjourned, I heard reports, obviously set afloat by Walsh, that the case had not been pushed before the grand jury as against Senator Kellogg. I at once stated to my associate counsel that the grand jury must be recalled. They concurred with me, though I am under the impression that they did not attach so much importance to it as I did, for the reason that it was my action, or failure to act, which the rumors impugned. I applied to Judge Wylie to reconvene the grand jury. He hesitated, in fact intimated that he should decline, whereupon I stated the facts to him in detail, and begged him as a matter of personal justice, if such a thing was proper to be considered, to reconvene the grand jury. He did reconvene it. Mr. Walsh was put before it as a witness. On the first day he testified only partially, as he afterwards stated to me, because he did not mean to tell anything more than he thought was necessary to secure an indictment. What he stated on the first day was calculated to raise suspicions against Mr. Kellogg, but not much more. For the purpose of procuring more testimony, and enabling or inducing him to produce some corroborative proof, I induced the grand jury to adjourn to another day. On that day Mr. Walsh gave much more testimony. He produced some papers. I questioned him carefully and in detail, until he stated that he had told all he knew. He made a much stronger case against Mr. Kellogg than the previous day, a case in which, if I had been a grand juror, I think I should have voted to find an indictment against Mr. Kellogg. At the same time there was a gap left in the case as disclosed by his testimony, for though it showed Mr. Kellogg's connection with and possession of the postal drafts which were alleged to have been given in pursuance of the conspiracy; though Mr. Kellogg was shown to have interested himself to prevent investigation, and though there were other things indicating Mr. Kellogg's wrongful connection with the matter, still a conscientious grand juror could, I think, be of the opinion that the evidence was not sufficient, as to Mr. Kel-

logg, to show criminality. Mr. Walsh did not, on either day, give his testimony in a manner to inspire entire confidence, and there were some improbabilities in some portions of it. It was a case where two men, equally honest, might differ. It was, moreover, a case where, if an indictment had been found, there could have been no conviction without further testimony. The grand jury, in fact, refused to find a bill. They did so, as I have been informed, by a vote substantially unanimous. Whether this conclusion was wrong or right, it is certain that the fact that the conclusion was arrived at, even in connection with the introduction into the grand-jury room of the book I have referred to, does not alone constitute ground for charges of criminality against the grand jury. Nor is it necessary to assume, as Mr. Walsh does, that because the grand jury did not indict they did not believe him.

Mr. Walsh is, however, in no position to complain of the action of the Government, for he is at this moment evading the service of subpoena on him requiring him to appear and testify before a grand jury, to which the Government is prepared to present evidence to sustain Mr. Walsh, evidence procured by the Government after great trouble. Mr. Walsh knows that we desire his presence, he knows for what purpose we desire it, and he knows that the confirmatory evidence the Government has is the precise evidence he desired should be obtained, and yet he evades service, and sends word to us that we can serve him if we can find him and that he will come to Washington only when he gets ready. For ten days we have had men watching for him in two cities. We know that he has received our letters. We know that he has seen his counsel to whom we have stated what we desired, and he refuses to appear. He prefers to write a long letter complaining of the Government for not doing the very thing it is seeking to do, and to do which it desires from him only the assistance which every good citizen owes to his Government. Judging by past experience he will soon give his entire correspondence to the public, and thereby aid them whom he claims to be seeking to punish. I trust that he may not do so in such a manner as to compel the Government to make public the real facts of the case, for that would go far to destroy the effect of the evidence we hope to obtain from him, for the human mind is so made up that a witness who so acts does not, even when he is telling the undoubted truth, receive the same credence as he would if he had come forward frankly and promptly.

I do not feel called upon here to refer in detail to Mr. Walsh's insinuations as to the charges against other persons claimed to have been implicated in the star-route frauds. The action of counsel in these cases has been fully reported to and approved by you. There is much more reason to believe that Mr. Walsh is at the present moment engaged with others formerly connected with the prosecution in a scheme to procure money from these alleged criminals than there is to distrust the sincerity or judgment of any one now concerned in the prosecution.

Mr. Walsh's statement as to what occurred on the former trial, as to my alleged neglect to urge the case against Mr. S. W. Dorsey, as to my being rebuked by other counsel, and as to the action of the court, is shown by the record to be thoroughly false.

For the reasons already suggested, you will perceive that it is very desirable that nothing that Mr. Walsh shall say or do should lead to a publication of this letter until after the pending trial is finished, unless his future course shall be such as to lead counsel to consider it unsafe to call him as a witness.

Your obedient servant,

GEORGE BLISS,
Special Assistant District Attorney.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

— — —
Mr. Bliss to Mr. Brewster.

WASHINGTON, January 3, 1883.

DEAR SIR: I have received from Inspector Woodward notice, given at your request, that you have decided to use James B. Price as a witness in some of the star-route cases. Of course I recognize most cheerfully your authority in this matter, but as I am not convinced of the wisdom of accepting Mr. Price in the present aspect of the cases as a witness and granting him the necessary immunity, you will allow me the privilege of rendering my dissent.

There are some matters connected with this business, not concerning your action, which may lead me to again trouble you, but I reserve them for consideration.

~~—~~ Your obedient servant,

GEORGE BLISS,
Special Assistant Attorney.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

*Mr. Brewster to Mr. Chandler.*DEPARTMENT OF JUSTICE,
Washington, January 12, 1883.

SIR: Upon the 21st of December the President sent to me for my action a letter written by one J. A. Walsh, from New York, dated the 18th of December, 1882. That letter has been published, as you no doubt have seen.

After it was copied for my use, on the 27th of December, I addressed a letter to George Bliss, esq. Mr. Bliss was absent at the time I received it. I therefore was obliged to wait until he returned before I wrote to him, remitting to him a copy of the letter, and calling his attention to the charges and criticisms contained in it upon his conduct. A copy of the letter that I sent to Mr. Bliss I herewith send to you. The letter of Mr. Walsh I will not send to you a copy of unless you require it, because I assume that you have read it, as it was published, and I know you have seen it, for the President so informed me.

There is an allusion in that letter to a Cabinet officer, as to whom he says, "A Cabinet officer who gave to a certain grand juror, in violation of the statute, the Spofford-Kellogg testimony." As I said in my letter to Mr. Bliss, "I do not know of any Cabinet officer who ever gave such testimony to any grand jury." I called Mr. Bliss's attention to that allusion.

On the 2d of January, in the city of New York, Mr. Bliss wrote to me a reply, which was not received at my Department until the 5th of January. I was then out of Washington, and did not return till the 9th of January, when I first received the reply of Mr. Bliss. That was day before yesterday. I make this precise explanation as to the times I received these papers so that you may understand why you have not heard from me before.

Upon the third page of Mr. Bliss's reply you will find he makes an allusion to the passage in Mr. Walsh's letter to which I called his attention, and that related to the supposed interference of a Cabinet officer. Mr. Bliss says: "He makes a special and gratuitous fling at some unnamed member of the President's Cabinet, but he does not dare to name him or to assert what he did. Indeed, he refers to the matter only as a report or rumor. The only act of any one indicated by him is the introduction into the grand-jury room of a book purporting to contain evidence given before a committee of the Senate."

When the President had sent to me the communication of Mr. Walsh, and before I wrote to Mr. Bliss calling upon him to answer to the matter contained in it, the President said to me that there was an allusion to a Cabinet officer in that paper which I would receive, which was intended to mean you, and that you so understood it, and that it was your wish that I should speak with you upon that subject. You have not spoken to me, and I assumed that you did not because you thought I was not ready, and because, perhaps, knowing of your intimacy with Mr. Bliss, and your constant intercourse with him as an old friend, I assumed you knew I had applied to him for such information as he could give, as it was my duty in the first instance.

The case is now ready, since Mr. Bliss' report, for me to speak with you upon the subject, as the President said it was your desire I would do. It was my place to be quiet and silent until I had arrived at the point of time when the circumstances made it fit for me to call your attention to the matter. In the first place, I could not do so under any circumstances unless I had been advised by the President that it was your wish I would do so, and that you recognized the reference to the Cabinet officer as applying to yourself. It was a surprise to me that you assumed it, and not knowing of any right to connect you with it, it would not be a proper thing for me to do; it would be unusual, unmannerly, intrusive, and probably offensive to ask you to explain a matter which did not allude to you in terms, and for which you might not wish to be questioned for reasons of your own, which it is your right to have control you.

Having thus by your request and at your instance invited your attention to the subject, I leave it with you to deal with it as it may be your pleasure to do. I feel great hesitation and delicacy in even approaching this matter and presenting it to you. It is not a pleasant thing to do. The intercourse between gentlemen and friends and official equals excludes the thought of interrogating, questioning, or inquiring in the matters thus expressed by anonymous implication, and in so offensive a way, by a man like Mr. Walsh, who has violated all of the decencies of public and private duty in his vulgar and offensive publications and communications.

Permit me to say that I invite your attention especially to the views expressed by Mr. Bliss as to the necessity of guarded treatment of this man. He is adroit, unscrupulous, and without shame; but he is valuable to the Government as a witness, and we must treat him with prudence and caution, having regard to the necessities of his usefulness in these complicated and infamous cases, in which a body of scoundrels defy the whole judicial power of the Government, after they have abused great

public trusts, brought the public service into shame and scandal, and robbed the public Treasury of millions of money collected from the people and dedicated by law to a function of Government of the greatest general necessity.

I am, sir, respectfully, &c.

BENJAMIN HARRIS BREWSTER,
Attorney-General.

Hon. WILLIAM E. CHANDLER,
Secretary of the Navy.

Mr. Chandler to Mr. Brewster.

NAVY DEPARTMENT,
Washington, January 13, 1883.

SIR: I have to acknowledge the receipt of your letter of yesterday's date. It appears by a reference to Mr. Walsh's letter of December 18th that his statement was as follows:

"It is known of all men who it was on that grand jury that violated section 5405 of the Revised Statutes by bringing into the jury room the Spofford-Kellogg testimony; indeed, Mr. President, it is said that a member of your Cabinet gave to a certain grand juror, in violation of the statute, the aforementioned testimony."

If Mr. Walsh referred to me in thus speaking of a member of the Cabinet, I have only to say that the charge is untrue; and is without the slightest foundation upon which to base it.

In view of the opinion expressed by Mr. Bliss and yourself (in which I concur) that nothing should be said or done by any officer of the Government to impair the efficiency of the prosecution in the star-route cases, I refrain from further comment on Mr. Walsh's letter.

Very respectfully,

WM. E. CHANDLER.

Hon. BENJ. H. BREWSTER,
Attorney-General.

Mr. Bliss to Mr. Brewster.

(Personal.)

JUNE 19, 1883.

DEAR SIR: The motion in the Kellogg case is set down for Saturday. Do you desire that I should be present? I do not think that I am *in fact* needed, but as there may be an attempt to bring politics into the matter—out of court—you may not think it wise to leave the matter with Merrick and Ker solely.

I prefer *not* to leave here at present.

Your obedient servant.

GEORGE BLISS.

Hon. BENJ. HARRIS BREWSTER,
Attorney-General.

I wish you would favor me with an answer by *telegraph*.

Mr. Bliss to Mr. Brewster.

THE UNION LEAGUE CLUB,
New York, August 16, 1883.

MY DEAR SIR: Is it desired or expected that I should take part in the trial of ex-Senator Kellogg?

I ask because it is *necessary* for me to know with reference to engagements for the fall and winter here.

Kellogg's trial is to be some time in October, I presume, the precise time not to be fixed till the court meets, on October 8. I consider that the Government has a right to my services at the trial if it wants them, but I *must* be able to arrange my engagements here. I have to arrange for some important trials here in October, and must therefore know what the Government desires of me.

As you know, I have never had any great faith that the case would succeed. If the evidence first produced by Walsh before the last grand jury were in possession of the Government, I should feel differently. I speak only from Mr. Ker's report as to those letters. But the Government has neither the letters nor copies. I fear Walsh cannot be relied upon. However this may be, I of course should do my best, if I went into the case. Perhaps some one who feels surer of success than I do would do better. Mr. Merrick and Mr. Ker are, of course, fully competent to manage the case without assistance from any one, but an attempt has been made to give a political turn to the case to the detriment of Mr. Merrick, and he as well as the Government ought to be protected from this. Some Republican ought to be associated with them. I am not sure I am the best man, but you have a right to my services.

Yours, truly,

GEORGE BLISS.

Hon. B. H. BREWSTER,
Attorney-General.

Mr. Walsh to Mr. Brewster.

NEW YORK, September 25, 1883.

SIR: Learning from a source deemed by me reliable that you have written a letter to the Hon. W. E. Chandler, Secretary of the Navy, wherein you make strictures of an unfavorable character concerning me in relation to the case of the United States against William Pitt Kellogg and my appearance therein as a witness for the Government, I beg leave to request that you furnish me with a copy thereof, as well as the date of the same.

Very respectfully,

J. A. WALSH.

Hon. B. H. BREWSTER,
Attorney-General, Washington, D. C.,
Care of Judge E. H. Grandin, 18 Broadway, New York.

By the CHAIRMAN:

Q. Mr. Bliss made some statement with regard to your appearing in the first Dorsey trial and not appearing in the second, and made some criticism upon your conduct in that respect. Will you please explain that?—A. The occasion of my appearing?

Q. Yes; the occasion of your appearing in the one case and not in the other.—A. It was the common judgment of all the counsel in the case, and my judgment—and I was the person to be considered in that respect—and also the judgment of Mr. Woodward, that it was a very proper thing for me to appear, and it would perhaps be considered rather an improper thing if I did not appear. I had gone into court occasionally during the trial of the case; the counsel had frequently sent for me to be there. They said my presence would help it, particularly in what they thought were the pinches of the case, where points were to be argued, interlocutory points that might affect results. Sometimes I was not able to go, but I went frequently. When the first case was about to close, upon very deliberate reflection, it was determined it would be a proper and an important thing for me to appear there at the end and speak to the case in conclusion, and it would be a very improper and unexplainable thing if I did not appear and speak.

For the purpose of preparing myself, I went over the whole of the testimony that was taken; then I had it cut out and condensed, and here [indicating a large mass of papers] you see evidence of the preparation I personally made for my argument in the case. This is an abridgment of the evidence in the case. I went over it with great care. I sat up at nights—many a night—working at it, because in the daytime I had other duties and I was interrupted and could not study when so interrupted. It was very hot weather, but I remained here, at great personal inconvenience, until the 16th day of September, long after Con-

gress had adjourned, in order to conclude that case. There was not a line of testimony or a line that counsel spoke I did not read and study. I sent for Mr. Woodward and conferred with him. He was kind enough to sit up with me and take part with me in the preparation, and his assistance proved to be very valuable. It was arranged I was to follow Mr. Wilson and Mr. Ingersoll, and close the case, and I determined, as a point of judgment, that I would confine my speech to such matters as their speeches developed and made it necessary for me to deal with, and I did so. Here is my argument, which will speak for itself. I made a brief argument, for the case had been elaborately discussed from beginning to end, and I did not undertake to touch upon all the points, because I thought it would be very wasteful and unnecessary and tiresome, and I thought it would be bad advocacy for me in the concluding speech to take advantage of that opportunity to go over the whole ground again. So, with a full knowledge of the whole case, I selected only those points which it seemed to me desirable and necessary for me to consider, and I spoke to them. The speech occupied the business part of two days, and then I left the case. I have been told that some little or puerile criticism was made here upon an incident which occurred while I was making my argument. The fact that it was commented upon here rather surprised me, for I could not see the purpose of it. It was silly and spiteful.

The CHAIRMAN. I suppose you refer to a statement which was made here to the effect that near the close of your argument the judge called your attention to an omission, and that you had some difficulty in answering him. Do you remember that?

The WITNESS. There was no omission at all. That is a mistake. I will tell you about it. Just as I was about to end, and while my mind was hurrying to a conclusion, I said, in effect, "Gentlemen of the jury, I am about to end this tedious and protracted discussion," and the judge at that point stopped me and propounded a question to me. It was a very intensely hot day, and I was very tired, and I did not catch the question. Judge Wylie's voice is a little low, and I did not quite understand what he said. I thought I had it, but I was not certain I had a perfect conception of what he meant, and, not wishing to make a mistake in any way, I turned around to speak to Mr. Merrick, who was sitting by my side, and ask him what it was the judge said, and he jumped up to explain the matter. My question to Mr. Merrick was, "What did he say? What does he mean?" Mr. Merrick rose and undertook to answer the court for me, and I sat down. I was glad to sit down, being very tired. Mr. Bliss was not present at my speech except at this last part of it. He was away. Then Mr. Wilson, for Dorsey, got up and said if Mr. Merrick was allowed to speak the defense would claim the right to speak again. I am testifying now from recollection, but I think my recollection will prove to be good. The court interposed and gave Mr. Wilson to understand that it was perfectly proper, that the Attorney-General was a little fatigued, and Mr. Merrick proposed to relieve him for a minute. The counsel upon the other side persisted and were quite eager. In the meanwhile, Mr. Ker leaned over to me and said, "The question the judge put to you was as to whether the indictment should lay the overt act to have been committed when the affidavit was sworn to or when the paper was filed." I was perfectly familiar with that subject, because when the counsel were considering how they would lay that in the bill of indictment, I was consulted by Mr. Ker, and if there was anything in the case I understood it was that. Seeing this altercation, I turned around and said to the court, "May it please your

honor, I can answer. I was a little puzzled by your interruption, and as you were referring to dates and papers, I was afraid that you were referring to something that I had not seen. I now understand your question, and I will answer it." And I did answer the question of the judge. And then the case went right on. That is the history of that transaction. It was a silly, senseless thing to allude to it here. Such things happen in almost every case, and certainly in every case of any magnitude; frequently counsel do not hear what the court says, and their fellow counsel get up to assist. That is the experience of every lawyer, at least. I am sure it is my experience. No one there treated the incident as harmful, but on the contrary, when soon after that I closed, all the counsel for the Government came around to me and thanked me for "the help" they were then pleased to say I had given the case by my condensed and pointed review of all that was needed, and no one was more gracious and applauding than Mr. Bliss.

Q. You did not appear in the second trial?—A. No, sir. It was considered whether or not I should appear, and all of the counsel, Mr. Bliss included, were anxious I should appear. The court assented to it, but the other side would not consent to it. They said: "If the Attorney-General concludes, he must conclude, and Mr. Merrick cannot speak in the case, as you gentlemen propose." I had not been present much during the trial, and Mr. Merrick had borne the brunt of the case in a most manful way, and I thought it would be great injustice to him, and an act of great discourtesy for me to supplant him at the end, and I so expressed myself in a letter to him and Mr. Ker. The counsel for the Government all round said they felt regret that I did not appear. They wanted me to appear, for they said the aid of my official presence was of value to the case. And Mr. Bliss was most earnest of all in this wish, because, he said, my "forensic ability" and official position had been felt in the first trial to its great advantage.

I find upon page 15 of Senate Document 156, in a letter there published, written by Mr. Bliss, the following clause:

I assume there will be no further trials till fall, but that one or more should then take place.

As for your own past relations to the cases, permit me to say that it seems to me you have done all that the public expected or had a right to expect, and what is more all that any fair-minded men could expect. Your constant appearance in court was an impossibility. In view of your other duties it would have been an impropriety. In yielding your right to close to Mr. Merrick, you showed yourself above personal considerations and ready to sacrifice a great opportunity for personal aggrandizement to the good of the cause, for you rightly judged that, however great the difference in forensic ability, a counsel who had sat through a long case like this from day to day would be better prepared to deal with its infinite details than one who had prepared himself from the daily records, to say nothing of the inevitable springing upon counsel of new questions and new views just at the close of the defendant's argument.

Q. There was some question raised here as to whether the case that was actually tried—the Dorsey-Brady case—was the strongest that could have been selected for trial. Were you consulted in regard to that matter, or was that the act of the attorneys?—A. That was the act of the attorneys, but especially of Mr. Bliss. He selected it as the strongest case, and I had to depend upon his judgment. My impression is his judgment was approved of by Mr. Woodward; at all events, I had in that respect to depend entirely upon Mr. Bliss, whose knowledge of all the papers and of the details made it necessary for me to defer to him.

Q. If there were any other cases that should have been brought to the attention of the grand jury, and in which indictments should have

been found, upon whom was the responsibility in that matter?—A. That duty was cast upon Mr. Bliss.

Q. If there were cases in which indictments should have been found, and in which they were not found, the responsibility for that, as you say, was with Mr. Bliss?—A. As the duty was with Mr. Bliss, the responsibility would have been with him. I have understood, and I believe it is undisputed, that Mr. Bliss, from first to last, controlled the selection of the cases, and he chiefly presented them to the grand jury. The reason given why Mr. Ker was kept in court was that Mr. Bliss had constant occasion to be before the grand jury.

Q. There was some effort made during the progress of these cases to bring about an arbitration. What do you know about that?—A. In reference to the Salisbury cases, I know nothing about it, excepting what Mr. Bliss told me. I heard of the Salisbury cases, and that they were important cases. Mr. Bliss used to come every day, and sometimes twice a day, to report to me what was going on, and after some time he told me that these Salisbury cases had failed before the grand jury, that they were not strong cases, were not well made out, and he had arranged with Mr. Ingersoll an arbitration should take place, and it was done with the consent of the Post-Office Department. I said, "Well, if the Post-Office Department assents to it, I have nothing to say." When he told me who were to be the arbitrators, Mr. Elmer, Mr. Ingersoll, and himself, I expressed my surprise at his selecting Mr. Ingersoll, or consenting himself, to be made an arbitrator with him after the violent scenes between them in court and the frightful insult Mr. Ingersoll had inflicted on him. He said as to himself another could be substituted. I said, "As long as Mr. Ingersoll remains, some counsel of the Government ought to be one of the arbitrators." I thought there was propriety in that, provided Mr. Ingersoll, one of the counsel on the other side, was to be an arbitrator; but it seemed to me the proper way would have been to have had some persons selected who had nothing to do with the conduct of the cases as counsel.

Q. What did Mr. Bliss say was the object of the arbitration?—A. To settle the civil liabilities of the Salisburys; he said inasmuch as the criminal cases could not be well made out, if the parties were willing to pay whatever might be found against them, it would be a great advantage to the Government to get them to consent to arbitrate without the delay incident to protracted proceedings in court; he seemed to regard it as quite an advantage to get an agreement to arbitrate; I never saw the advantage myself, but the Post-Office Department had assented to the agreement, and it was not for me to interfere.

Q. Were you consulted as to the legality to do it?—A. After wards Postmaster-General Howe and Mr. Elmer, having occasion to consider just how it stood, Mr. Howe came to me and talked about it, and I said, "I cannot see where you have the power to arbitrate. There is nothing to prevent the other side from revoking after they get a knowledge of your case." He submitted the question to me in writing, calling for an opinion upon the subject, and I gave an opinion, which is, of course, of record in the Post-Office Department, or in the Department of Justice, or in both, in which I expressed the view the submission was invalid, and it fell through in consequence of that opinion. Postmaster-General Howe was of the same opinion with me. I believe I have stated I knew nothing of that submission until after it was made, and I know nothing about the Salisbury cases, except as I have been told.

Q. Did Mr. Bliss state that the case against the Salisburys and the Parkers was a weak one, and did he give that as one of the reasons for

submitting to an arbitration?—A. That is my recollection; indeed, I am clear about it.

Q. That is the criminal case?—A. The criminal case is the one I am alluding to, the case that went before the grand jury.

Q. Was this conversation which you have related prior to the submission to the grand jury, and to their decision?—A. It was afterward; it was told to me all at once; I was told at the same time the bills had been ignored—the grand jury do not find bills here; they make presentments, and the bills are prepared afterwards—I was told by Mr. Bliss the grand jury had refused to present those cases, and that the cases were weak, and he had succeeded in making this agreement to arbitrate, and he considered it was a very successful thing that he had achieved, and an advantage to the Government.

Q. Speaking of these civil suits generally, has the Postmaster-General at any time transmitted to you as Attorney-General a statement of the aggregate amounts which were estimated to be due from star-route contractors for overcharges, or illegal charges on account of expedition?—A. With reference to these civil cases, I will tell you all I know about them. When I first went into office Mr. Bliss spoke to me upon the subject of the civil suits, and in a letter which I wrote to him, and which was published, I alluded to those suits. It was the intention then to pursue them at the same time with the criminal suits, and I so expressed that intention in the letter I wrote him; but, upon conference, it was agreed that it was an impracticable thing, and not altogether a proper thing to do; that the civil suits might well be deferred until the criminal suits were disposed of as the statute of limitations would bar many of the criminal suits, but would not the civil suits. Mr. Bliss gave me to understand that Mr. James had said he should take charge of those civil suits. There the matter rested until about the end of the second Dorsey and Brady trial. Mr. Bliss then began to correspond with me on the subject of these suits. In the mean time Postmaster-General Gresham came in, and it was made a subject of discussion as to whether or not those suits ought to be pursued, and whether it was worth while to do so; whether they would not be fruitless in many instances; whether these parties sued at remote distances (as we had no faith in them at all, or in their methods of conducting business), would not interfere with juries and prevent verdicts, and make it a costly and interminable business to the Government. All this was canvassed and considered; but it was finally determined that the government did not pursue these kind of suits for the purpose of making money. That was my opinion, and it was accepted because the object was to show a determination on the part of the Government to follow whoever had wronged it by way of example, be the remedy civil or criminal, to let all such men feel they could not escape, and to see to it if they did escape it would be only after they had had their day in court.

Then the Postmaster-General undertook to have the cases put in order for the purpose of bringing civil suits. Some time last autumn he sent me a very full and abundant letter upon the subject, and sent over the papers to the Department of Justice. I do not know that he sent all of them, but many of them, and I think all. Then Mr. Bliss wrote me several letters upon the subject, in which he showed a great anxiety to get possession of those cases and to pursue them; but, on conference with the Postmaster-General, it was concluded that it would be better not to give them to Mr. Bliss; that he had his hands full with the criminal suits; and then, again, that it might be an expensive thing to let him take charge of these civil suits; at any rate, it was not considered

a proper or politic thing to do, and I did not answer Mr. Bliss upon that subject for the very reason that I was not prepared to have him employed, and I wished to avoid the subject, as he was in the criminal cases, I did not care to provoke him by a flat refusal. There the matter was, and when the papers came to me in the Department of Justice, I sent them to Mr. Simons, who is chief assistant attorney-general in the Court of Claims, and his most experienced assistant, Mr. Blair—I say most experienced, because Mr. Simons indicated that Mr. Blair had the longest experience and the best practical knowledge of any of the gentlemen who were under him in the Court of Claims. Mr. Simons was selected because he has charge of all such matters. I asked them to examine these cases, and let me know what ought to be done, telling him to let nobody see the papers, but to keep them strictly private and secret. They detained the papers some two or three months examining them; they could not act more promptly, as they were occupied before the Court of Claims. Finally, they reported to me they had not time to deal with them properly; that it was not a work they could perform; as it would interfere wholly with their regular duties in the Court of Claims, and that the cases required some one to have charge of them and make it his special business. As the statute of limitations would not bar the cases, I did not feel uneasy about delay, but it was the determination of the Department, and it had been determined all round, that the cases must be proceeded with, and that is still the determination of the Post-Office Department and the Department of Justice. The cases were not laid aside for any reason of neglect or disinclination to pursue them. When Mr. Simons made this report to me, a gentleman was here who is one of the district attorneys, and connected with the Department of Justice—a man of considerable experience and practical usefulness—and I called him in and said to him, “I wish you would look at these cases and see what you can do with them for me,” because Mr. Simons, as I before stated, had said it was necessary to get some experienced, skillful, and responsible person to take charge of them. This gentleman made a kind of perfunctory examination of them, and then was called away on his professional and official duties, and he corresponded with me on the subject, and wanted \$15,000 a year to take charge of the cases. I was not prepared to pay him \$15,000 a year. I had not the money to give, and if I had I would not give it, because I thought it was an excessive charge. I had enough of that in the contract I had inherited, made with Mr. Bliss, and as I was about to make contracts now I was determined to have them on the safe side, and not to make any excessive or extravagant ones, such as I had been obliged to fulfill with Mr. Bliss; so I declined to employ the gentleman. Then there was another gentleman who had been named to take part in the prosecution of the election cases in South Carolina, and had come here to take charge of them; but inasmuch as, after consultation with the district attorney in South Carolina, Mr. Melton, and the best advice that could be had, we came to the conclusion those prosecutions would probably be fruitless, as all of them had already resulted in acquittals, and it would be exposing the Government to large and profitless expense to continue them, it was determined they must be abandoned, and in consequence of that determination there was of course no occasion to employ this gentleman, and he went away a little disappointed. I proposed to give him moderate employment to the amount of \$1,200 or \$1,500 in South Carolina, but that was not what he had expected; he wanted a higher position with more pay, and particularly more honor, and he felt disappointed and went away. I felt sorry for him, and after

the offer of the gentleman who wanted \$15,000 a year to take charge of the cases had been declined, the thought came to me, "Here is a man that has been disappointed, a man of reputed energy and fitness. I will send for him and see if he will take charge of them." I did send for him, and he staid here a week or ten days examining the papers, and then told me he had examined them enough to see they involved a vast amount of labor and responsibility, and it would take a year to dispose of the suits in the different jurisdictions where the cases would be brought, and he would like to know what I could afford to pay him. I said, "Now you have brought me to a point where I wish to be. Be good enough to give me a written statement of what you think would be a fair compensation for taking charge of these cases." He stated he had a large and profitable practice, and he could not afford to leave it unless he were well paid. I said, "That is all right; now make your charge according to your estimate of the value of your services. Consider what you would lose by leaving your business at home, and going away to attend to these cases, and tell me what you think a proper charge, and then I will decide whether I can afford to employ you." He went away, and, after consideration, wrote me a letter, which is of record, in which he asked \$2,500 a month, or at the rate of \$30,000 a year. Of course, having declined the services of one man at \$15,000 a year, I declined this gentleman's services at \$30,000, and so ended that negotiation. This was only a few weeks ago. As I cannot get suitable counsel without having to pay a very high price, I have determined to assign some one of the assistants in the Department connected with the Court of Claims to arrange those cases, and I will superintend them and have them attended to by the district attorneys where the jurisdiction will attach. There has not been a day of intentional nor even accidental delay. The cases have been pursued in good faith, just as I have explained. The difficulty has been to get counsel at a reasonable rate of compensation.

By Mr. STEWART:

Q. Does this list on the 397th page of our record comprise all the contractors against whom those cases are pending?—A. I cannot answer that. I have not examined those papers. There is an immense mass of them. I presume it does. I have not seen those papers, except one or two.

Mr. STEWART. I was going to ask you whether it does not appear on the face of this list that very many of these parties are either dead or irresponsible? For instance, here is John W. Dorsey, his name appears six times, and there is an aggregate amount against him of over \$112,000.

Mr. LYMAN. The bondsmen are responsible.

Mr. STEWART. The bond would not cover any such matter as this.

The WITNESS. It has been construed that it does cover the faithful performance of the whole contract afterwards. So I am told.

The CHAIRMAN. The question is whether the bondsman would be responsible for moneys received by the illegal procurement of expedition.

The WITNESS. *Prima facie*, he would not be for a fraudulent act done without his knowledge, where he had no complicity.

Mr. STEWART. It would appear from an inspection of this list that some of these parties are irresponsible, and some of them are dead; for instance, John M. Peck, and John R. Miner.

The WITNESS. Peck is dead.

Mr. STEWART. Well, here is an amount of several hundred thou-

sand dollars claimed against John M. Peck, and I suppose he died insolvent.

The WITNESS. In that case there would be no suit, of course, if the fact of the insolvency was well ascertained.

Mr. STEWART. The larger portion of these names I should think would probably come in the same category.

The WITNESS. As to those that are dead and insolvent, there would be no suits; and as to those that are living and worthless, we could not ascertain that until there was an execution.

The CHAIRMAN. Unless it was notorious.

The WITNESS. Well, even then the Government would feel it necessary to get judgment, to show the man that he would not be treated as if he were free from wrong-doing and permitted to enjoy immunity.

By the CHAIRMAN:

Q. We are to understand, then, that the Department has determined to pursue these cases?—A. Yes, sir; that is the intention of both the Departments. That was resolved in consequence of my expressed determination that wherever there was a legal duty, it should be performed, and wherever there was a legal right, it should be enforced.

Q. Mr. Bliss suggested to the committee that a fruitful subject of investigation would be the alleged attempt of some agents of your Department to bribe some members of the jury in the star-route cases, and there have been allegations to the effect that some person connected with the Department made overtures to members of the jury pending the first Dorsey trial; do you know anything about that?—A. I know only what all the world knows. I was away when that thing occurred. There was an attempt made to make it appear that Mr. Cameron had solicited Mr. Dickson, but it was examined thoroughly; I had it examined, intending to deal with Mr. Cameron if he were guilty in the slightest degree of being connected with such an affair, and the result of the examination was to show there was an attempt made to entrap Mr. Cameron, but that he never saw Mr. Dickson to speak to him. He saw him at a distance, but never spoke to him, and the very moment that Bowen, in the room of Driver's restaurant, made the proposal, Mr. Cameron went to Judge Hoover, on the spot, at the door of Driver's restaurant and said, "Why, the scoundrel, or the villain, demands money," or, "wants money," and he would have nothing to do with him, and Mr. Cameron then went right off to the railway and left for Arizona that night. The testimony was, and there is a letter in existence written by Mr. Merrick stating, that he and Mr. Ker both advised Mr. Cameron to see Mr. Dickson, because Mr. Dickson had sent him a message he had something to communicate, and Mr. Merrick had faith in Mr. Dickson's intention to reveal something that ought to be known, but Mr. Cameron refused to see Dickson, and never did see him, but left town immediately and started off to Arizona within fifteen or twenty minutes after Mr. Bowen had conveyed Mr. Dickson's request for money to him.

Q. Whom did you authorize to make an investigation of that charge?—A. Ex-Governor Wells.

Q. Ex-district attorney of this District?—A. He had been district attorney here. He was also at one time, I am told, governor of West Virginia. He was specially employed to investigate this case, and there is a report of his upon the subject in the Department, a copy of which you can have.

Q. Did he make a thorough examination?—A. Thorough. I was de-

terminated that if Mr. Cameron had the slightest color of connection, directly or indirectly, with any attempt to tamper with any of the jury, I would dismiss him on the spot and hand him over to be dealt with by the prosecuting officer of the District, and I so said.

Mr. STEWART. There was not any evidence before this committee that he had done anything of that kind.

The WITNESS. No, sir; nor is there anywhere that I have seen, nor can there be, from all that I have learned.

By the CHAIRMAN:

Q. Who was Bowen?—A. I do not know. He was a friend of Judge Hoover. I believe he was a man of very bad character.

Q. Did he have any authority from the Department to represent it in any way?—A. Not the slightest. I never gave him any authority. He brought me a note and card from the Secretary of War, recommending him as a gentleman. The Secretary of War said afterwards he had given him the note and card not meaning to recommend him to the extent that it was accepted. Upon that recommendation he got some employment at \$5 a day, to look after violations of law relating to liquor traffic with the Indians, but he was immediately dismissed before he performed any duties. It was in consequence of Judge Hoover's recommendation and the recommendation of Mr. Secretary Lincoln, he was employed by the Department at all. I do not know that I have heard of a man in connection with any of these cases who had a worse record than that man. Members of his own family came to me and pronounced him as a castaway and a bad fellow.

Q. Were you satisfied from the report of Mr. Wells as to the facts in the case that they did not involve anybody connected with your Department?—A. Thoroughly, thoroughly, thoroughly.

Q. Where is Mr. Brewster Cameron?—A. In Tucson, Ariz. He holds an appointment there as receiver of public moneys.

Q. He has recently gone there, I believe?—A. Within a month.

Q. Was he in the city when Mr. Bliss appeared before this committee the last time?—A. No; Mr. Cameron went away from here and attended the Republican Chicago convention, and then directly upon the adjournment of that convention went to Tucson, and was 2,000 miles away from this city when Mr. Bliss last testified before this committee.

Q. I have here a letter from him, addressed to the chairman of this committee, dated Tucson, Ariz., June 24, 1884, with which he transmits a written statement of his connection with this jury matter, which is sworn to before an officer authorized to administer oaths, the clerk of a court, I think, in Arizona. Have you seen the paper?—A. It was sent to me and I sent it to you. He requested that I should do so, and I did.

The CHAIRMAN. I think this might go in as a part of your statement.

The WITNESS. As you please, sir. Mr. Cameron requested that you should have it, and I thought it was right that you should.

Mr. STEWART. I have no objection to its going in, but I do not see that there is any evidence here implicating Mr. Cameron at all.

The WITNESS. When Governor Wells was employed to investigate the matter, Mr. Bliss was consulted and was very active in advising about defending Mr. Cameron, and I have his letters to that effect. In all he said and wrote then, he was earnest in his expressions of belief that it was a snare set for Mr. Cameron by the defendants; and he never once hinted or said or acted as if he believed him guilty, and he ever after that trusted him and consulted freely with him. He did not

approve of Mr. Wells's employment, but I took Mr. Wells because Mr. Simons, the first assistant in the Court of Claims, recommended him. I wrote him to know where I could get an impartial and responsible man to investigate the matter, and he gave me the name of Mr. Wells, and I took Mr. Wells.

Q. He was directed to make a thorough and impartial investigation of the facts, and report to you the truth?—A. Yes, sir; and the object was that I should learn the facts, so that if Mr. Cameron had gone astray I should deal with him, and I so told Governor Wells.

Q. And the result of that investigation was the entire exoneration of Mr. Cameron?—A. Yes, sir; and Mr. Cameron was discharged before the magistrate and Mr. Dickson and others were bound over.

Q. Mr. Bliss and Mr. Ker have stated that there was some misunderstanding between Mr. Bliss and you in regard to the course of the Department in the Strobach case. Is there any statement that you can make in reference to that matter?—A. I will tell you what I know about it. I know it because I knew the fact at the time, but I have also refreshed my recollection by reference to the records of the Department. I believe—now if I am wrong you must correct me—Mr. Bliss complained here (I know that he complained to Mr. Cameron) that the Department of Justice had acted in a very irregular way in having knowledge of the charges against Mr. Strobach and other persons and permitting the President to appoint them to office and then instituting proceedings against them after the appointments had been made. That is not the fact, and never was the fact. I think it would be a very improper thing for a member of the Cabinet to have charges pending against a man in his Department, and to know of them, and stand by silent, knowing the President proposed to appoint the man, and wait until the President appointed him, and then afterwards make an assault upon the person appointed. But Mr. Bliss did not then take that ground. He took the ground at the time he interfered and talked with Mr. Cameron and with me, that where a man had been appointed by the President (he did that in a letter to me, and he did it in a conversation with me, a very warm conversation)—that where a man had been appointed by the President and his past official acts became the subject of complaint after he was appointed, the Department ought not to pursue the man; that the appointment condoned the offense. I pronounced that a very dishonest doctrine, and said if it were to be published to the world, it would be and ought to be generally condemned as a great political immorality and infamy. The facts connected with Mr. Strobach's appointment are these: He was appointed upon March 2, 1883, and upon the 7th of March the general agent of the Department of Justice sent an examiner down to Alabama to examine Marshal Osborn's accounts. (Osborn was removed, and Strobach was appointed in his place.) After the examiner had gone the general agent received a telegram from a Mr. Booth, dated on March 6, at Montgomery, Ala., in which Mr. Booth called the attention of the general agent to the fact that Mr. Strobach ought not to have been appointed a marshal, and stated he had formerly been a deputy marshal, and an examination ought to be made into his accounts. This was after his appointment as marshal. He was appointed upon the 2d or 3d of March, and this telegram did not come until the 7th. An examiner of the Department, Mr. Bowman, was then down there making an examination into Mr. Osborn's accounts, not Strobach's, and he will tell you all about it; he made the report. On the 9th of March the general agent wrote to Mr. Bowman and referred the telegram of Mr. Booth to him. In consequence of that, Mr. Stro-

bach's accounts as deputy marshal were examined, and he was found to be implicated in a way that subsequently led to his indictment. The facts were unknown to the Department, never discovered, and never thought of, until his appointment had been made and he was in possession of his office. He was then indicted, and you know the rest of it.

Q. From the sequence of those events, it would appear that the appointment of Strobach suggested to Booth to give the information to the Department?—A. It was entirely in consequence of that telegram the investigation was made. Mr. Bowman will tell you he was down there to investigate Osborn, not Strobach, and that he had no idea of pursuing Strobach until he received this telegram directing his attention to the matter. Osborn was then out of office and Strobach had been appointed. The investigation was made, and it developed the facts for which he was afterwards indicted, and which were then for the first time discovered or thought of by the Department.

By Mr. STEWART:

Q. Strobach was acquitted, was he not?—A. He was acquitted on one bill. There were several other bills against him. Then there was a strenuous opposition and serious complaint made by him, and a violent outcry spread by means of the Associated Press all over the country, that Mr. Cameron had persecuted him; in consequence of which I detailed Mr. Blair to examine all the papers. As soon as the stenographic report of the trial containing all the evidence and all the proceedings, with the speeches of counsel and the judge's charge and all the papers came, they were given to Mr. Blair. I then sent him down to Alabama and he investigated the matter there, and he came back and made a report to me he was of the opinion that Mr. Strobach was guilty, and that it was the opinion there while he was marshal he could not be convicted. Mr. Blair also expressed doubt as to whether or not he could be convicted at any rate. He also said there was a question as to whether or not the trial upon that one bill did not virtually include in effect all the other bills. I then directed the papers to be sent to Mr. Bentley, of the Department of Justice, not giving him Mr. Blair's report, but asking him to make a report upon those papers as to what ought to be done. Mr. Bentley, without knowing Mr. Blair's opinion, gave a written opinion of his own that, in his judgment, Mr. Strobach was guilty and ought to have been convicted, and he suggested that perhaps there was some doubt as to whether or not he ought to be tried again, as there was a question whether or not one acquittal did not virtually in law avoid the other indictments. Then I sent the case to Mr. Maury, solicitor for the Department in the Supreme Court of the United States, the first assistant. He, not knowing what the others had done, gave a similar opinion. Then I gave the case to Mr. Solicitor-General Phillips and Mr. Simons conjointly, and they examined it and came to a like conclusion, but suggested that probably there had better be another trial, stating they were satisfied the man was guilty. After reflecting upon the matter, I finally concluded, as there was a doubt, I would, with considerable misgiving, dismiss the other prosecutions, to avoid expense and to give Mr. Strobach the benefit of the legal doubts in his case, and because it was clear to me while he was marshal there could be no conviction, and I did dismiss them, and that ended the proceedings. That is the history of the case.

By the CHAIRMAN:

Q. You reported all those facts, I believe to the Senate, at their re-

quest?—A. The Judiciary Committee of the Senate called upon me for the reports of these gentlemen, with my findings, and I sent the Senate the whole of them.

Q. Mr. Strobach's appointment was rejected by the Senate?—A. It was rejected.

Q. Then there was no difference of opinion between you and the President with regard to the propriety of your course in that matter?—

A. The President said if there was any persecution it ought to be stopped and the matter investigated. He did not like the idea of a man he had just appointed to office being prosecuted, and he wished me to have the matter investigated. I informed him of the reports that had been made, and there it rested.

Q. Did Mr. Bliss insist upon it that the appointment was a condoning of past offenses?—A. He did not use the word "condoning" or "condone" in a letter, but he wrote me a letter in which he maintained the doctrine that where the President had made an appointment, the subsequent prosecution of the person appointed was improper, no matter when the facts were discovered or known, and he did say to Mr. Cameron that the appointment condoned the offense, and he also said it in words to me. That is how I came to use the word in connection with this subject. Mr. Bliss acknowledged to me he had had a conversation with Mr. Cameron upon this subject, in which he had maintained that doctrine, and I reprehended it and refused to listen to such a proposition.

By Mr. STEWART:

Q. I do not know what the object of this inquiry is, but Mr. Bliss, I suppose, had no official relations to that matter, one way or the other—no relations except as an individual?—A. He spoke as if speaking by higher authority, but really he had no more right to interfere with it than any other man you would meet in the street. He had nothing to do with it, and that made his act offensively intrusive and unmannerly.

Q. So that it is a mere personal matter as regards Mr. Bliss. No man connected with the administration has entertained or expressed any such view?—A. I do not think there is any gentleman in the administration who would have the hardihood to stand up and maintain such a doctrine. If he did, he had better prepare to leave office. I think public sentiment would put him out.

By the CHAIRMAN:

Q. Mr. Bliss's report in reference to the Ottman case has been brought to the attention of this committee; do you remember that report?—A. I think you called my attention to it because Mr. Bliss made some allusion to it in connection with Mr. Cameron.

The CHAIRMAN. No; that was in relation to the case of Strobach. Mr. Bliss said in his testimony that he had told Mr. Ker that if the course of the Department of Justice was continued Brewster Cameron or some one must leave.

The WITNESS. Mr. Cameron reported to me that Mr. Bliss had said if these things were persisted in I would have to leave the Cabinet. They have been persisted in and I have not left the Cabinet. But they have not been persisted in any other way than a proper way. Where the guilt of persons nominated for office was not known to the Department at the time of their nomination and where it was discovered afterwards, they have been duly prosecuted according to law.

Q. Please explain now what action the Department took in reference to the Ottman case?—A. After I came into office I had a great deal of

débris to clear off that had been left on my hands in consequence of the condition of things after General Garfield was wounded. There was a mass of matter that had to be cleared out and I had to learn the routine duties of the office, of which I had no previous knowledge. At that time, shortly after I became Attorney-General, Mr. Bliss came to me and told me there was a case there called the Ottman case and stated there was a considerable sum of money withheld and either attached or in the keeping of the Government officials, money which the man had been charged with stealing, but that he had been acquitted.

Q. Did he say Ottman had been acquitted or that the jury had disagreed?—A. My impression is he said the man had been acquitted. I learned afterwards there had been a disagreement of the jury, but the impression Mr. Bliss left upon my mind was that there had been an acquittal. I do not think he meant to mislead me at all; I am sure he did not; but that was the impression I got from what he said. He said the money ought to be disposed of, that it should go somewhere, and somebody was entitled to it; that the Government had rested without acting for ten years. He came severaltimes to see me upon the subject. I inquired of the chief clerk about it and quite a mass of papers were laid before me. I had no time to examine those papers. Mr. Bliss seemed to be very anxious and earnest about it, and in consequence of that I said to him: "To whom shall I refer these papers? I cannot examine them. It is out of my power to examine them." He suggested that somebody should be appointed to take them in hand. I said, "Well, to whom shall I refer them?" I did not understand much about the machinery of the office at that time. As I know now, the proper person to have referred them to would have been the Solicitor-General, but if I had sent them to him then it would have delayed the matter, because he was at that time before the Supreme Court attending to his list there, and the object, as presented by Mr. Bliss with urgency, was to get rid of the case then. Mr. Bliss named several gentlemen, none of whom I had ever heard of, and as he named them he rejected them, saying, This one won't do for this reason, and that one won't do for that reason; and it ended by my turning to him and saying, "You seem to know all about this case; why cannot you take it up and examine it?" He said, after some momentary hesitation, he would do it provided he would be permitted to do it without compensation. I said, "Why cannot you be paid for your services? If you are going to render the service you may as well be paid." He said he would accept no compensation, but he would take the case in charge and examine it thoroughly for me, and let me know what there was really in it. After some time, not very long, ten days, two weeks, or, maybe, a month, he made a report upon the subject, and I accepted and adopted that report. It is all in the papers. I have not read them since the time, but I read them all then and approved his report, and that was the last I heard or thought of the matter. I took Mr. Bliss's action in the case, because I had confidence in him. Then, too, I knew he was an old district attorney and had large experience in matters of that kind, and I thought as this was an affair that had arisen out of a prosecution by the district attorney here, Mr. Bliss would be the most suitable man I could find to take charge of it. It was for these reasons I took him, and I accepted his report and adopted it, and believed I was doing what was right. I thought it was a proper thing to do on the facts as they were reported and the case stated by him in the report.

Q. Then you acted entirely upon the judgment and recommendation of Mr. Bliss?—A. I did, wholly. That is, I consulted no other person.

Nobody else spoke to me upon the subject. Mr. Corkhill wrote a letter, which is on record, in which he sustains the facts as found by Mr. Bliss——

Q. You did not personally examine the details of the case?—A. I read all that Mr. Bliss wrote and reported about it.

Q. You knew what he stated in his report?—A. As he gave it.

By Mr. STEWART :

Q. Have you any reason now to doubt the propriety of his view of the case?—A. Since I read in the newspapers what Governor Wells said here about the time of the beginning of this investigation, I do not think that if, at the time I was conferring with Mr. Bliss, I had known and believed what Governor Wells states, I would have confirmed Mr. Bliss's report.

Q. That would depend upon whether Governor Wells was right or whether Mr. Bliss was right, would it not?—A. Certainly ; but I mean that what has been stated by Governor Wells would have persuaded me to stop and inquire further, and I would not have confirmed that report immediately, as I did. I would have inquired further.

By the CHAIRMAN :

Q. In what respect does Governor Wells's report differ from Mr. Bliss's?—A. Governor Wells, I believe, denies some of the statements that Mr. Bliss makes.

By Mr. STEWART :

Q. What had Governor Wells to do with the case?—A. He was the prosecuting officer when this man Ottman was prosecuted, but at the time Mr. Bliss took up the case I was assured by all who were consulted as reported by Mr. Bliss, that there was really no chance of getting a conviction.

Q. And therefore, in that view of the case, Mr. Bliss contended that it would be wise and expedient, and best on the whole, to make that compromise?—A. I thought at the time it was a proper thing to do, and I have only had a doubt raised in my mind by reading what Governor Wells said, as to whether I would not have paused and inquired further before confirming Mr. Bliss's report.

By the CHAIRMAN :

Q. At the time you confirmed that report you were of the opinion that civil suits for the recovery of the money would not be successful?—A. Yes, sir; I was advised and I thought it was hardly possible to recover that money. If I had been advised or had thought there was a chance of recovering the money—any chance—I should have declined to compromise.

By Mr. STEWART :

Q. Mr. Bliss expresses the opinion now, does he not, that there was not any chance of recovering the money?—A. He said so to me at the time.

Q. Well, he so testified before this committee, I believe?—A. So I understand ; I did not read his testimony.

Q. You have no reason to suppose that he acted in bad faith?—A. No. I hope you do not think I said so.

Mr. STEWART. No, you did not.

The WITNESS. I said a little while ago, when Mr. Bliss told me the man had been acquitted; he did not mean to mislead me; I was very sure he did not.

The CHAIRMAN. If Ottman had been acquitted that would have been the end of the case, would it not?

The WITNESS. I have told you subsequently I found out he had not been acquitted. I mention that because I have a distinct recollection at the time the case was first presented to me, when Mr. Bliss told me the man had been acquitted, I wondered why the money had not been handed over; that puzzled me. I said to myself, "Here is a man acquitted. Why do not they give him the money?" But subsequently I ascertained he had not been acquitted, but the jury had disagreed, and that was the reason of the money being impounded.

By Mr. STEWART:

Q. Mr. Attorney-General, let me ask you a general question with reference to the conduct of the star-route cases about which so much has been said—whether you have any reason to believe from any fact that transpired in the history of that prosecution, or anything in the conduct of Mr. Merrick or Mr. Bliss, that either of them omitted to do anything that he was required to do as a matter of duty, or did anything in violation of his professional duty and employment?—A. I would be very sorry to believe any such thing, and I do not believe it, from any knowledge I have. I think they did their duty to the best of their ability. I was very much startled at one time, just before the first trial ended, by an interview that was published, purporting to have been had with Mr. Bliss at Alexandria Bay, which I did not believe. I thought it was some newspaper misstatement by somebody who had taken a great liberty with him, and I said so then. Shortly after that there was a letter published by Mr. Bliss, explaining that interview, which I thought was a very incautious letter, particularly as the case had not ended; but I never supposed, and I never was willing to believe, that Mr. Bliss had been guilty of any premeditated infidelity to the case.

Q. My question, of course, bears only upon the point of good faith. I did not mean to ask whether the counsel had not made mistakes. Any lawyer is, of course, liable to make a mistake, and if Mr. Bliss published any such letter as to the weakness of the case it would seem to have been a mistake.—A. I have answered you. I say I did not believe and would not be willing to believe that Mr. Bliss or Mr. Merrick had been guilty of any infidelity to the case, from any knowledge that I possess.

Q. You have already said that so far as the President is concerned he has never manifested any other disposition or desire than that the cases should be thoroughly prosecuted, and you have said that he told you he was ready to afford you any aid he could to see that justice was done.—A. Yes. When I went into office the first thing the President said to me was, he wished me to take especial charge of those star-route cases, he wished me to give them my especial and careful attention, and he would do any and all things that I should call upon him to do to assist me in having the cases thoroughly investigated and tried. And, from the beginning to the end, he has continued to act in that spirit, has always assisted me, confided in me, and strengthened me in everything I have done. I feel that the President's help and confidence have been of very great value to me in pursuing those cases.

Q. Please state whether that attitude and conduct of the President extended to the Kellogg case.—A. Why, certainly. I said the star-route cases. I made no distinction between them. I hope you do not think I intended to make any.

Mr. STEWART. No; but sometimes people have attempted to make a distinction between that case and the others.

The WITNESS. I believe the President has been true to his duty in that matter.

Mr. STEWART. He is not now a candidate for office, so that there is no political capital to be made out of the question, and I do not ask it in that way.

The WITNESS. Well, I do not answer it in that way.

Mr. STEWART. As you are the law officer of this administration, I ask the question merely in order to have your professional opinion on the subject.

The WITNESS. I do not give it to you with any other view than as an act of justice to the President. There can be no misunderstanding about that, and I think the question is a very proper one, if you will permit me to say so.

The CHAIRMAN. Mr. MacVeagh stated, I think, that there was something in relation to the removal of certain public officers which indicated that the administration was not in earnest in prosecuting the star-route cases.

Mr. STEWART. I do not remember that he said that.

The WITNESS. Mr. Bliss and Mr. Merrick made special complaints against local officers here who, they said, were hindering the prosecution of these cases and were giving aid and comfort to the defendants, and I applied to the President, and he at once dismissed them upon my application. There was not a day's delay. When I went to him he moved on the instant, and I remember that when it was the subject of remark by others present, he said, "I will stand by the Attorney-General in this and sustain him." I called for the removal of those men, and they were removed accordingly.

By the CHAIRMAN:

Q. One of those cases was that of Marshal Henry, I believe?—A. Yes, sir; Marshal Henry and two or three other persons. Marshal Henry was removed for a flagrant violation of his duty in aiding the defendants. I knew of his bad conduct, and officially, in a personal interview, reprehended Marshal Henry for his misconduct, and he entreated me, with much feeling, to overlook what he said was his negligence, and what I said was wilful misconduct; and I knew also of the bad conduct of some of the others, and their conduct was a matter of complaint by Mr. Bliss and Mr. Merrick.

Q. Mr. Bliss presented in his testimony here a letter written by you, requesting him to see Mr. Kellogg. Do you remember that?—A. The first I knew of Mr. Kellogg being indicted was when he came to the Department of Justice in great distress, in a most excited way, crying and wringing his hands, and complaining that Mr. Merrick was pursuing him, and that it was a political persecution. I never had heard of the suit or the proceedings. I told him I did not believe Mr. Merrick would persecute anybody, and I felt sure he had nothing to do with the indictment, because he did not go into the grand-jury room, as I understood, but that I would see about it; and Mr. Kellogg went away. Soon after that I saw Mr. Bliss and asked him about the matter, and he said, "Mr. Kellogg is all wrong there. I am the only party to be called to account for that. My friends have complained that I have been pursuing this man with sharpness, and I am doing it, not Mr. Merrick. His name appears in this transaction and he must be called to account for it." I told him it was a sad thing to

have Mr. Kellogg coming to me crying and going on as he did, and I felt very bad about it, and was pleased to hear what he, Bliss, said, particularly as I had assured Mr. Kellogg that Mr. Merrick had nothing to do with this "persecution," as he called it. A day after that I was tired and worn out, having been sitting up the night before working at the star-route case then on trial, and I was lying in bed in my room, in the afternoon, at Wormley's Hotel, when there was a knock at the door. I was asleep at the time. The knock at the door awakened me. The servant came in and brought Mr. Kellogg with him; he followed in as the servant entered. Mr. Kellogg was in a high state of excitement; he cried, wept, clasped his hands and wrung them, and expressed himself in terms of great anxiety and distress. It was a painful thing for me to witness, and it wearied and annoyed me very much. I pacified him and talked with him, and told him he ought not to come and annoy me in that way. I was lying in bed undressed, and he continued this sort of distressful talk and complaining about Mr. Merrick persecuting him. I told him it was not so, that Mr. Bliss had told me only a day before Mr. Merrick had nothing to do with it; and finally I said: "Why don't you go and see Mr. Bliss? He will tell you all about it. You ought not to come and plague me and tire me and annoy me in this way." He said Mr. Bliss would not receive him. I said, "Yes, he will"; and I asked him to hand me a piece of paper, and I took a pencil and wrote a note on my knees, lying in bed, and gave it to him. Just as I had finished it and handed it to him Mr. Brewster Cameron came in to see me, and Mr. Kellogg told him in an undertone to go out, that he wished to be alone with me. I called Mr. Cameron in and said I wanted him there. I said that, because I wanted to be done with the scene. Mr. Cameron came in, and then Mr. Kellogg got up—for he was kneeling by my bed-side sobbing—and, in a very excited way, and with a great deal of feeling, expressed his gratitude, and took me by the hand, said he would never forget my kindness, and said he would deliver the note to Mr. Bliss, and went off.

After he had gone, I said to Mr. Cameron, "That man has tired the life out of me; he has waked me up and annoyed me, and I have given him a letter and sent him to Mr. Bliss to get rid of him." Mr. Cameron said, "He will make a bad use of that letter." I said, "No, he cannot; there is nothing in the letter; it is only a line or two scribbled here on my knee, asking Mr. Bliss to receive him. He is a very pleasant and agreeable man and is in trouble, and I don't think he would make a bad use of it." Remember at this time I did not know the details of the case, for when Mr. Kellogg undertook to tell me I would not permit him. I told him I had no right to hear what he had to say, that he might tell me something it would be my duty to take cognizance of officially. He said he could trust my honor. I said, "I will not take your compliments or your confidence one way or the other; you cannot talk to me. I will not permit you." In reply to my remark about his not making a bad use of the letter, Mr. Cameron said, "Yes, he is in trouble to be sure, and he is a pleasant man, but the fact that he is in trouble might make him use that letter improperly." I then said to Mr. Cameron, "Go and tell Mr. Bliss exactly the circumstances under which I gave that note." He did go away, and he subsequently swore that he did tell Mr. Bliss. To all of this Mr. Cameron has sworn, and I hand you his affidavit repeating all I have here related. That letter was never alluded to until Mr. Bliss brought it out here. I am told he said here it embarrassed him. He never displayed to me any embarrassment about it. It was months after the date of the note that we met at my house and he never spoke of it

then. I will here add that Mr. Kellogg was constantly seeking opportunities to see me and importuning me to dismiss the proceedings. Once he followed me to New Port, Rhode Island, in September, 1882, and was so noisy in his excitement and solicitations that my wife, who overheard him, thought it was some one asking a pardon for a condemned man. I persisted in following the Kellogg matter up, and never abated any of my conclusions upon it. When it was before the grand jury I wanted it pursued there, and afterwards when we had a consultation at my house, or conversation about it, I said I was determined it should be pursued and proceeded with. I never had any doubt in my mind for a moment about the necessity for that prosecution. I will not say whether the man ought or ought not to be convicted; that would not be a proper thing for me to say now; but I knew there was sufficient evidence to warrant me in seeing the indictment should be regularly presented and found if possible. And it was all the more necessary the case should be followed up because there was an outcry made by Mr. Walsh that Mr. Bliss and I and "a cabinet officer" were concerned in suppressing it.

By the CHAIRMAN :

Q. Did you advise the bringing of this matter to the attention of the grand jury before the statute of limitations should have run on any phase of the case?—A. Yes; and when the statute was supposed to have run, there was a doubt whether or no it had run against the time when the money was paid, after it had run against the time when the papers were delivered. I also directed that question to be presented to the court for determination. That it did not become me to determine; but I wish to say here I think Judge Wylie decided that properly. I agree with Judge Wylie's opinion. Mr. Merrick and I do not agree as to that. I have always considered Judge Wylie determined that question correctly. I believe he tried that Kellogg case in good faith, as he conducted the whole proceedings. It is almost disrespectful to compliment him, but I want to say as a public officer, I feel thankful to Judge Wylie for the labor and the care and the learning he bestowed upon those cases, and generally for the way in which he discharged his duty in the cases.

Mr. STEWART. I do not think Judge Wylie has been unfavorably criticised at all.

The WITNESS. Yes; some have criticised him. In the first place, I never did; I do not think it becomes an officer in my position, or any lawyer engaged in a case to criticise a judge who has done his duty to the best of his ability, every assumption being in his favor; and, in the second place, as I have examined these proceedings and followed them through, I take this opportunity to say I think Judge Wylie deserves praise for the way in which he presided in these cases; he had a very serious, laborious, and difficult duty to perform, and he performed it with signal ability. I think his charges on both the trials were remarkably clear and fair. As to the interlocutory points he decided, not having been present much of the time, I know nothing about them; but I must assume they were correctly decided. As to the Kellogg case, I think when Mr. Kellogg insisted upon a trial it was his right to have it, and although the Government sought to have the case continued until it could be ascertained whether we could get Mr. Walsh, I think when the judge ordered the trial to proceed he did right. I think Mr. Kellogg had a right to have the case tried, and that Judge Wylie decided that question properly. I think also when Mr. Walsh appeared and Price's testimony was taken and it was decided finally upon the motion of the defense to strike out that testimony, the judge's decision on the motion

was correct. I have read his opinion, and I agree with Judge Wylie; not merely because it is my duty as a lawyer to submit to the decision of the court until it is reversed, but beyond that, I say as a lawyer if I were the judge in the case I would have made the same decision.

The CHAIRMAN. It has been alleged that Mr. Merrick showed some partisan zeal or prejudice in the case.

The WITNESS. Against Mr. Kellogg?

The CHAIRMAN. Yes. Was any such feeling exhibited by Mr. Merrick to you or to your knowledge?

The WITNESS. I never saw it. Mr. Merrick was very positive as to the necessity of prosecuting the case, but he always gave the reason of a lawyer, assuming Walsh would produce the papers and documents he had seen and Price would give evidence on the trial to the facts set out in his affidavits. I believe Mr. Merrick to be a man of integrity and truthfulness, and he always disclaimed any feeling of malice in the matter.

Mr. STEWART. There is not any evidence before this committee which in the slightest degree would impugn the integrity or propriety of Mr. Merrick's professional conduct.

The WITNESS. I am answering a question, Governor Stewart. I am not volunteering to defend Mr. Merrick. Mr. Merrick spoke to me frequently upon the subject of this Kellogg case, and said, "Now, whenever you think my presence in this case is unnecessary or undesirable because of these allegations of malice, just say so and I will step out." And, finally, when the case was set for hearing and we saw it would be tried, I told Mr. Merrick I thought the time was come. I said to him, "Mr. Kellogg is very open in his declarations that you are instigating this prosecution and infusing an element of personal malice into it from your hatred to him, and I think it is the proper thing you should now leave the case, as you have previously suggested your willingness to do." I made the suggestion to Mr. Merrick, and he wrote me a note at once, withdrawing. I thought the time had come, for I was determined, if the case went to trial, it should not have the appearance of being prosecuted from any but public motives.

The CHAIRMAN. You were determined that Mr. Kellogg should have a fair and impartial trial?

The WITNESS. Oh, yes; that every man should have a fair and impartial trial.

Mr. STEWART. I do not know but it may be expected that in view of the charges made by the gentlemen employed as counsel for the Government in these star-route cases for their personal services, the committee should take your judgment as to the propriety of those charges. I do not mean your opinion as Attorney-General, but as a professional man of long professional experience, and also as one having personal knowledge of the cases. I will therefore ask you whether, in your judgment, the charges made by Mr. Merrick, Mr. Bliss, and Mr. Ker are excessive?

The WITNESS. My judgment is expressed in the letters I wrote on the subject, which are published in Senate Document 156. My judgment has been, and still is this, that Mr. Bliss made a bargain and that the bargain was not an extravagant one at the time it was made, in view of what was supposed to be the probable length of time that would be consumed by the cases. It was not supposed or believed then they would occupy the great length of time they did. Mr. Bliss, I am informed, is a lawyer who enjoys a fair practice in New York, and they pay good fees there. Expenses are very high in New York. Men to

live there respectably must earn a great deal of money. Mr. Bliss left his home and his business, left what business he had and surrendered the opportunities for new employment there, and he certainly gave a great deal of earnest, apt, industry to these cases, and if the cases had continued for only a few months at the rate he charged I would have thought he was properly paid. But after they had come to be prolonged as they were, I thought Mr. Bliss ought to have had some consideration for the Department, in view of the criticisms that were made, and ought to have abated his charges somewhat and looked upon the cases not merely as an opportunity for gain, but as an opportunity for professional honor and distinction as well as for reasonable gain.

But he was governed by his understanding, and he did work industriously, and, I think, with a great deal of apt skill. He has a peculiar fitness and skill in matters connected with documentary proofs, and in marshaling evidence in cases like these, and he was of value. He insisted on receiving what he had agreed to take, and for that reason I thought he had a right to it. I would rather myself he had reduced the amount and not made so heavy a charge, because it would have relieved the Department from the criticisms of a great many people in the country and elsewhere who think the charge very high; who do not understand the fees that are paid to lawyers in cities and places where money is abundant and where they are well paid for their experience and services. Mr. Merrick, I think, has been paid liberally, but not too liberally; nor Mr. Ker, either. Mr. Merrick, I think, surrendered all his business here. Being at home he was not exposed to the same risks that Mr. Bliss was of losing his practice, but still he abandoned his clients here, and gave the whole of his time uninterruptedly to these cases, and I really believe (my attention was called to it by Mr. Woodward, and we talked it over) Mr. Merrick's health has been impaired by the continuous and excessive labor he was obliged to undergo in conducting the cases. The contentions were very exciting and very frequent and the responsibilities very great, and, I say again, I really think his health has been impaired by his labors. Taking the cases as an entire thing, both trials together, I think the counsel have been well paid, but not wastefully paid. I would rather that I could have got the services at a lower rate, but I could not, for Mr. Bliss's charge resulted from his bargain, and it was very natural Mr. Merrick, who ranked up high in his profession and was selected because of his rank and ability, would expect a corresponding compensation. It was due to his dignity as well as to his ability. That is what I think about it.

The CHAIRMAN. If you had contemplated at the beginning the long continuance of the cases, I suppose you would have made other arrangements?

The WITNESS. I would have tried to get the work done cheaper if I could. It is very easy to criticise these things after they are done, but I think the best was done that could be done under the circumstances. With great care I have over and again reflected on all of this, and I really do think the best was done—the best was done. If the district attorney had been a gentleman who enjoyed the confidence of the Government at the time these suits were prosecuted, it would have spared all these expenses, or of a greater part of them, for he would have had the control and conduct of the cases, and he would have invited in such assistants as were necessary, and I feel quite sure the expense would have been much less. But, as the district attorney was excluded, for reasons that went to his discredit, why, the Government was power-

less, and had to do the best it could under the circumstances. The time for removing Mr. Corkhill was the time before Mr. Bliss was retained, and before the Guiteau case went on. I could not help myself. Mr. Bliss was put in the case from the first by those who began the prosecutions. His pay was fixed at that time. He was well prepared, and understood the complex details of the cases. He had acquired, with Mr. Woodward's help, a knowledge of the multitudinous collection of papers and documents. Had I dismissed him on a question of pay I would have broken an engagement made with him, and for which he had abandoned his other business. That would not have been fair to him. Then, had I parted with him before the case was concluded it would have been taken by some as a harsh judgment and a reflection upon him, and others would have assumed that it was done in the interest of, and to protect some of the defendants who had held high official positions. To have suddenly dismissed Mr. Bliss or displaced any of the counsel on a mere question of compensation would have shocked the case itself, and it would have imposed on me the necessity of getting others instructed in the details and as fit to conduct the cause, and that could not have been done. I could not find a man or men who would take up their work with the same fitness of preparation. Had I dismissed Mr. Bliss or the other gentlemen I would have been obliged to surrender the case, and that I never would have done. My duty was to follow the case persistently.

The amount of the fees for the proceedings no one could have foreseen. They grew larger than any one could have at first supposed, because the cases expanded and so much time was taken in the trials, time that would have been forejudged to have been improbable.

Mr. STEWART. I was going to ask you generally about the services rendered by Mr. Woodward. Have you anything to say upon that point?

The WITNESS. When I first went into the case I did not know Mr. Woodward. He was a stranger to me. After the case went on he was necessarily detailed and handed over to the Department of Justice. He was at the elbow of Mr. Bliss all the while, and at Mr. Merrick's elbow whenever he was needed. I do not think there was a fact in the case they did not acquire from him. When I prepared the short argument I made in the first case—the investigation and preparation indicated by this file of notes I have shown you—when I prepared that argument I consulted a great deal with Mr. Woodward. I had learned his value. I think without Mr. Woodward these cases never could have been instituted. I think he was, to use one word, invaluable. He is a man of remarkable intelligence; he is a man of great purity of character; he is an educated gentleman. In all my life, in an experience of over 46 years of legal practice, I never have met with a man who could assist a lawyer better than Mr. Woodward. He understood his subject thoroughly. He understood all the bearings and relations of each point he submitted, and he would instruct himself in the law bearing upon it by conference with counsel. He was the most valuable assistant I ever had, and I believe to him mainly is owing the fine preparation that was made in these cases, the complete and thorough preparation. The Government, I think, is in debt to Mr. Woodward for his intelligence, industry, and integrity. I have learned to admire and respect him very much. I know him in no other way but in connection with these cases. I speak only from what I have learned of him in these cases.

There is a point I promised to say a few words about here. In the letter I wrote to Mr. Chandler I wrote some sharp words of reflection

upon Mr. Walsh. What I wrote then was not written from any personal knowledge of Mr. Walsh's character. I never saw him until he came from Montreal to be a witness in court; but I judged him from what I learned from Mr. Bliss, who seemed to have a very bad opinion of him, and from what I considered to be his reckless way of dealing with me in his published letters, wherein he spoke ill of me without cause and charged me with conniving with Mr. Bliss and a "Cabinet officer" to suppress the prosecution against Mr. Kellogg. I told Mr. Walsh I would say here that what I had written about him was not based upon personal acquaintance or upon personal knowledge of his character, but upon impressions obtained as I have just stated.

The CHAIRMAN. Is there anything else you desire to say?

The WITNESS. No; I came here only to answer questions, and I am ready to answer any that you desire to ask.

The witness put in evidence, in connection with his oral testimony, the following correspondence, previously transmitted to the Senate in response to a resolution of that body, and printed in Ex. Doc. No. 156, Forty-eighth Congress, first session:

Letter from the Attorney-General, transmitting, in answer to Senate resolution of January 24, 1884, copies of papers and data bearing upon the compensation of special attorneys in star-route cases.

DEPARTMENT OF JUSTICE,
Washington, April 14, 1884.

SIR: In answer to Senate resolution dated January 24, 1884, I have the honor to transmit herewith copies of all papers and data bearing upon the compensation of the special attorneys in the star-route cases.

The letters relating entirely to this matter have been copied in full, and where it has been referred to incidentally in letters embracing other matters, I have had extracts made of that which was relevant to this subject.

The compensation for legal services in these cases was first fixed by my predecessor, Mr. MacVeagh, at a consultation with George Bliss, esq., at Long Branch, N. J., in the presence of Mr. James, then Postmaster-General, as you will observe from the letters of Mr. Bliss to Hon. William Lawrence, First Comptroller of the Treasury, dated November 12, 1882.

It seems that at that time Mr. MacVeagh did not think he had authority under the law to enter into a contract binding the Department to pay a specific sum for future services. The fact is, the law does contemplate such contracts, but Mr. MacVeagh, not having the Statutes at hand, pleaded his inability under the law as a reason for not entering into a formal agreement. However, they came to a mutual understanding which was deemed its equivalent.

I did not think the rate thus fixed to be either immoderate or in excess of the fees ordinarily paid in New York to lawyers of active practice. It must be remembered, too, that Mr. Bliss was taken away from home and a prosperous business, and that he was selected because of his peculiar fitness for investigations of this character, having had large experiences as United States district attorney in New York City in like examinations.

Had it been originally supposed that the cases would occupy the time they did, probably the rate fixed would not have been asked or given. When, however, the trial was tediously protracted by the policy of the defense, the sum total paid for the services of Mr. Bliss did appear excessive, and I accordingly urged that some abatement be made by him, as I did also to the other counsel. Mr. Ker's bills I reduced, and Mr. Merrick made reductions at my request, but Mr. Bliss insisted upon full compliance with the requirements of the original contract, in one instance claiming that it allowed him to charge for argument a sum in excess of \$100 per day, which I refused to grant; and on the 4th day of November, 1882, he wrote a letter threatening to withdraw from the case if his account was not paid.

While the cases were in progress, I thought it injudicious to insist upon concessions which would bring about the withdrawal of Mr. Bliss. Besides this, had a new attorney been employed in his place, it would have taken him several months to learn the facts, and make the necessary preparation, which would have increased rather than diminished the expense, though he were employed at a lower rate.

The compensation of Messrs. Merrick and Ker was fixed by me not extravagantly, as I think. The record of the two trials embraces 9,374 pages of closely printed mat-

ter; the labor was extreme, and the counsel were engaged continuously for months, and often to a late hour at night. In view of the importance of the cases, and the responsibility devolving upon the attorneys for the Government, I do not think the amount received by Messrs. Merrick and Ker excessive, or out of proportion to that paid in cases of even less magnitude between private parties.

All of the counsel were necessary. There were at least ten openly acknowledged counsel for the defense in the first trial, and eight in the second. Opposed to those were but three for the prosecution. Some of the time of Mr. Bliss was frequently taken up in attendance upon the grand jury, and out of court, when the whole labor of the case was thrown upon Mr. Merrick and Mr. Ker, who had to conduct the frequent and vexatious interlocutory contentions over almost irrelevant questions raised only to prolong the trial in pursuance of the policy of the defense.

On the 29th of March, 1884, I requested Mr. Bliss to retire, and on the 31st of March, 1884, Mr. Merrick withdrew. I have recently employed Mr. Ker to assist in the prosecution of the Kellogg case, a matter which he had previously prepared and with which he is familiar. His last employment is from March 31, 1884, and is at a compensation to be fixed after the trial, when I can properly judge of the value of his services.

In the first trial of the case against Dorsey *et al.*, I personally appeared in court as often as my other duties would permit, followed the case with care from day to day, and made the closing argument before the court and jury. Two of the defendants were convicted on the first trial, but the irregularity and incongruity of finding the subordinates guilty and failing to convict the organizers and chief conspirators, those who made the whole gain, and those who had set on foot the whole scheme to rob the Government, was so manifest, that the verdict was set aside upon the motion of the Government. On the second trial there was an acquittal.

The public men who were involved as defendants in these cases were not on their trials before those juries alone; they were on their trial before the people of the United States, and they were convicted by the common judgment of the whole country. They are not punished by imprisonment, but they had better be in prison than now at large, objects of scorn and aversion.

These prosecutions have not been without their usefulness either. I have been informed by the Post-Office officials that they have saved the Government in that Department \$2,000,000 per annum. The effect has been to deter all of the adventurers who throng about the Departments in Washington. The same officials have assured me that before these cases were begun the halls of the Post-Office Department were swarming with these dishonest jobbers. They are there no more. The wholesome terror of these trials has expelled them. The thoroughness of these investigations has made it plain that there is no place so high that it could become a sanctuary for a thief and public robber.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

Hon. GEORGE F. EDMUNDS,
President of the Senate.

DEPARTMENT OF JUSTICE,
Washington, September 29, 1881.

SIR: You are hereby appointed special assistant United States attorney for the District of Columbia, to aid in the prosecution of certain persons charged with being concerned in frauds on the United States in connection with what is known as the star-route investigation, at a compensation to be determined upon by the Attorney-General when the suits are ended.

This appointment to take effect from the 15th instant, at which time you were orally engaged by me.

You will take the oath prescribed for district attorneys and transmit the same to this Department.

Very respectfully,

WAYNE MACVEAGH,
Attorney-General.

BENJAMIN HARRIS BREWSTER,
Philadelphia, Pa.

DEPARTMENT OF JUSTICE,
Washington, September 29, 1881.

SIR: You are hereby appointed special assistant United States attorney for the District of Columbia, to aid in the prosecution of certain persons charged with being concerned in frauds on the United States in connection with what is known as the star-route investigation, at a compensation to be determined by the Attorney-General when the suits are ended.

This appointment to take effect from the 15th instant, at which time you were orally engaged by me. You will take the oath prescribed by law for district attorneys, and transmit the same to this Department.

Very respectfully,

WAYNE MACVEAGH,
Attorney-General.

GEORGE BLISS, Esq.,
New York City.

NEW YORK, October 1, 1881.

DEAR SIR: I beg to acknowledge receipt of your favor of 29th ultimo confirming your earlier verbal retainer in the star-route cases. I inclose an oath which I suppose is in proper form. I shall seek at some later day to have some understanding with you as to compensation and expenses.

Your obedient servant,

GEORGE BLISS.

Hon. WAYNE MACVEAGH,
Attorney-General.

706 WALNUT STREET, PHILADELPHIA, October 3, 1881.

SIR: I have the honor to acknowledge the receipt of your letter dated September 29, 1881, wherein and whereby I am appointed by you special assistant United States attorney for the District of Columbia to aid in the prosecution of certain persons charged with being concerned in frauds on the United States in connection with what is known as the "star-route" investigation, &c. With that letter you sent me a copy of the oath to be taken by me as such official. Having sworn to that, I herewith transmit the same to you.

I have the honor, sir, to be your obedient servant,

BENJAMIN HARRIS BREWSTER.

Hon. WAYNE MACVEAGH,
Attorney-General of the United States, &c.

706 WALNUT STREET, PHILADELPHIA, October 24, 1881.

MY DEAR SIR: Since you were here I have been reflecting upon the whole of our interview about the star-route cases, and have concluded to submit my thoughts to you by this letter.

It was my impression and hope that Mr. MacVeagh would continue as the Attorney-General till December, or, if possible, while the star-route prosecutions were pending. Indeed, as I told you, in my interview with him I dissuaded him from leaving his position, and urged him to continue to be the Attorney-General, if it would be acceptable to the President. He told me then that he might leave, but that he would remain till December or till after Congress would meet. Now, by a series of uncontradicted publications, it is given out that Mr. MacVeagh will leave in a day or so and some other gentlemen be appointed to his office. If that is to be so, I fear we will not be able to adjust with him the measure of our compensation, as you suggested we must, and a stranger, not understanding the case and its necessities as Mr. MacVeagh certainly does understand them, will be our paymaster, we will have difficulty in settling our compensation.

What, then, must we do? It is plain that much time at home and at Washington, away from our homes, must be given to the preparation, argument, and trial of these causes. Indeed, much of this has been given by you, and some study and labor by myself.

I cannot consent to undertake all of this severe labor without some definite understanding with those in authority. My affairs here occupy all of my time, and I look forward with considerable misgivings to the propriety of my continuing in the cases

as a burden it will not be prudent for me to take up. At any rate, it is plain, as you said when you introduced the subject to me, that we must have our fees settled and agreed on now, so that we may have some understanding that will enable us to know if we are to be properly provided for; and if not, so that we can withdraw in time to permit those in charge of the cases to supply others instead of you or myself, if either of us will think proper to surrender our briefs and withdraw before it is too late.

Had Mr. MacVeagh been here and called to see me, as he said he would when I last saw him in Washington, I would, as you requested me to do, have presented this matter to him and asked him to take an early opportunity to see us together and enter into some stipulation with us determining the compensation that must be paid us now and hereafter. Your voluntary introduction of this subject to me, and your request that I would speak of it to Mr. MacVeagh when I next saw him, has induced me to write to you about it now. I foresee trouble and dissatisfaction before us if we do not now act.

You can probably learn if it is true that Mr. MacVeagh is now to leave the office, and if a successor will be soon named; it seems to me that we must act promptly with Mr. McVeagh and obtain his action in the matter.

For my part, the more I feel the pressure of my affairs here, and the more I consider the prospect of absence from home and the amount of labor I must give to these cases at home and at Washington, so as to do my full duty, a sense of hesitation as to my remaining in them presents itself plainly to my mind.

I am, &c.,

BENJAMIN HARRIS BREWSTER.

GEORGE BLISS, Esq.,
New York City, N. Y.

HOWGATE CASE.

The \$300 includes expense in New York, printing indictments, clerical services, and some incidental outlay.

STAR-ROUTE CASES.

1. S	\$150 00
2. M	300 00
3. P. (short-hand, &c.)	350 00
4. M. & A. (clking)	73 00
5. C	100 00
6. G. Printing, &c	125 00
7. Clking	16 00
8. Traveling	125 00
9. Clking	23 00
10. Tel. and exp. of witnesses	125 00
11. Incidental	83 00

OCTOBER 24, 1881.

DEAR SIR: It is perhaps proper that I should, before you return, call attention to my pecuniary connection with star-route and Howgate cases.

First. In the star-route cases I have received \$750, and expended considerably beyond that amount, as you will remember, after consultation with you in reference to various necessary matters. I inclose a statement of expenditures less than the real amount, as there are some incidental matters that cannot well be included.

Second. In the Howgate case I have not received anything, and the total expenditures, including some at New York, will aggregate about \$300.

I would be pleased if some orders were made in relation to these matters in whatever form may be deemed best. There will be some additional necessary expenses in the Howgate case, and I would respectfully suggest whether a payment of \$1,000 might not properly be made in that case.

Third. I barely suggest whether it might not be well for at least a partial extent to fix the compensation, specially in the star-route cases.

Very respectfully, your obedient servant,

WILLIAM A. COOK.

HON. WAYNE MACVEAGH,
Attorney-General United States.

P. S.—In the inclosed statement the initials of the parties only are given, as in some cases it would not be prudent to disclose the names. In some cases only partial payments have been made, but my obligations for all full amounts have been given.

706 WALNUT STREET, PHILADELPHIA, *October 23, 1881.*

MY DEAR SIR: After we parted last night Mr. Bliss advised with me as to our fees in the star-route cases, as you said we should do. We have arrived at the following result, and agreed that I should promptly communicate it to you, so that we may have your immediate action while you have the authority to act.

First. We now request you to pay us each \$2,500 for the services thus far given.

Second. That your successor may be informed of the understanding between us and be prepared to fulfill your engagement with us. I repeat here what was expressed last night as to the rate of compensation to be allowed us while we are in charge of these cases, and that was, we are to be paid each \$100 a day while occupied in the cases, either out of court in the preparation of them or in court in the trial and argument of them, together with our expenses.

I have the honor to be, with great respect, your obedient servant,
BENJAMIN HARRIS BREWSTER.

Hon. WAYNE MACVEAGH,
Attorney-General of the United States, &c., Philadelphia.

[Law offices of Wayne MacVeagh, Geo. Tucker Bispham.]

402 WALNUT STREET, PHILADELPHIA, *October 31, 1881.*

MY DEAR SIR: I beg to inclose you a letter I have received from Messrs. Brewster and Bliss, special counsel in the star-route cases. Considering the professional standing of these gentlemen, I have no doubt you will agree with me in thinking it proper to pay them the fees they now ask; but they are doubtless aware that you cannot bind the Government to any contract in the matter which would control the action of my successor, when appointed.

I think, however, it would be proper for you to say that you recognize fully the gravity of the cases in their charge, the very great amount of labor connected with their prosecution, and the entire reasonableness of their representation, that the Department will compensate them fairly and justly for the industry, zeal, and ability it knows they will devote to the matter in question.

Of course, I only offer these suggestions for your consideration and decision, for you are Acting Attorney-General, and I am only awaiting the appointment of my successor, but I thought you would be glad to know my views on the subject.

Sincerely yours,

WAYNE MACVEAGH.

Hon. SAM'L F. PHILLIPS,
Acting Attorney-General.

[Indorsement, in the handwriting of Solicitor-General Phillips.]

The Att'y-Gen'l, Nov. 1, '81. Answered Nov. 1, '81, saying that I would carry out the contract, referring to the clause "at a compensation to be determined," &c., &c. See letter appointing the gent.; that I was indisposed to do more than pay them \$2,500 "on acc't of services in general, and say nothing of the \$100 per day, &c. See Mr. Brewster's note to the Att'y-Gen'l, inclosed, and dated Oct. 28, 1881.

THE ARLINGTON, WASHINGTON, D. C., *November 23, 1881.*

DEAR SIR: For some reason, which I do not understand, Colonel Cook has sent me a bill for disbursements made by him, with a request to "please have the bill arranged." I have inclosed it to you.

I know nothing of the items of the bill, because it was (all or chiefly) incurred before I came into the star-route cases. I can only say that Colonel Cook has worked earnestly and faithfully, and ought to be promptly reimbursed for his proper disbursements. I think he once rendered an account to Mr. MacVeagh which covers the same items, but it has been mislaid by him. Perhaps it is for this reason he sends this through me.

Your obedient servant,

GEORGE BLISS,
Special Counsel.

Hon. S. F. PHILLIPS,
Acting Attorney-General.

NOVEMBER 28.

MY DEAR BREWSTER: Your fees are all right; but, as you know, such things take time in Washington to get round. In my absence, under the law, Mr. Phillips is Acting Attorney-General; but I wrote him a letter in the fee matter which made it all right; suggesting just the answer which Mr. Bliss suggested was the only one he could write—putting it on the basis of an honorable relation, but not of specific contract.

Sincerely, yours,

WAYNE MACVEAGH.

Hon. BENJAMIN HARRIS BREWSTER.

WASHINGTON, D. C., *December 29, 1881.*

DEAR SIR: I received your letter here and telegraphed you briefly. I have no data here from which I could make out a bill. I at once telegraphed to New York for the information. It should be here in the morning, and I will get it to you by to-morrow night's mail, unless I can get through here so as to bring it myself, which doesn't look probable, as I have had to devote a whole day to a matter which ought not to come to me, but which Colonel Cook should have attended to. *I am very much out with him.* Doubt his fidelity, I am sorry to say, though, perhaps, without good cause; but certainly doubt his value.

I have been away so much from home—here so much—that my bill must necessarily be larger—larger than I think you will care to *yoke* yourself to; in other words, more than you will feel like charging, though I wish you would come up to my mark. If you do not it may be wiser for your bill to go through alone. The Department closes at 12 Saturday, doesn't open Monday. It will, therefore, be apparently impossible for you, unless your bill is here Saturday a. m., to get it out of the Department of Justice before you go in.

Your letter received in New York I shall arrange with the Associated Press to publish all over the country to-morrow. It is good.

Am here issuing subpoenas for the grand jury, and arranging for people to serve them in the West.

I came here expecting to get away to-morrow (Friday night), but *may* still succeed, though I fear not. If I can do anything for you, will stay till Saturday p. m. If I get away Friday, may stop over night that night at Philadelphia.

In the matter of bills, I don't want to be connected with Cook. He is putting in some bills for expenses in a way that may be right, but which will certainly be criticised.

Your obedient servant,

GEORGE BLISS.

Hon. BENJ. H. BREWSTER.

I could not come over to Philadelphia to-day, as my subpoena servers are waiting, and I am behind time.

THE ARLINGTON, WASHINGTON, D. C., *December 30, 1881.*

MY DEAR SIR: I inclose a bill. You will see I have charged for fifty-three days absent from my office. This is besides immense time spent at my office and house. It is not a cent too much, and yet I recognize that if this thing is to continue the aggregate will be more than any one can stand. But I have a plan for future reduction.

Yours, truly,

GEORGE BLISS.

Hon. BENJAMIN HARRIS BREWSTER.

401 WALNUT STREET, PHILADELPHIA, *December 31, 1881.*

MY DEAR SIR: I have been shown the bills of Mr. Brewster and Mr. Bliss for services in the star-route cases to this date, and I have no doubt you will cheerfully approve them so that they may be paid.

I have of course no right to express an official opinion, but unofficially I venture to say that if in your place I would certainly approve them.

Sincerely, yours,

WAYNE MACVEAGH.

Hon. SAMUEL F. PHILLIPS.

DEPARTMENT OF JUSTICE,
Washington, January 14, 1882.

GENTLEMEN: As I have before said to you verbally, I now write to say that I desire that the expenses of prosecuting the star-route cases must be kept within restraint, and I desire that all extra outlays hereafter will be first submitted to me, and all that have been engaged in extra service may now be reported to me, so that I may know what has been done and is now doing in such extra service, so that if I think them no longer required I may say so.

I am, truly, yours,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

Messrs. BLISS & COOK,
For United States.

SEPTEMBER 14, 1882.

DEAR SIR: The result of the Dorsey trial precipitates upon me a troublesome question, which I have foreseen, but which I hoped to avoid by postponement.

I assume, under the circumstances, a second trial of this case will be deemed a necessity this fall or in the early winter.

Though a new trial would take much less time than the original one, still it must take many weeks. I came into the star-route cases reluctantly and under assurances which I fully believed, as did those who made them, that they would require in the aggregate only a few weeks' absence from my office and home, and much less prolonged labor than has in fact been indispensable. They have been found to require my continuous absence for weeks and months. For an entire year they have absolutely prevented me from undertaking any new business.

For this, as you know, no compensation which I could ask or you could grant could be a sufficient return, for it is the breaking up of a business built up by twenty-five years' devotion to my profession. Were this the only consideration, though in view of the circumstances in which I came into the cases I should deem myself at liberty to retire from them, still I should be disposed, if it was thought important, to make the sacrifice which would be required by my remaining, in hope that some arrangement would be made by which less constant absence on my part would be required.

But the condition of my wife's health introduces another and imperative consideration. Circumstances have rendered her always far more dependent on me than is ordinarily the case between husband and wife, and we have in nearly thirty years never been so much separated as during the last year. This has affected her spirits and indirectly her health.

She is now in a condition which requires constant watching and care, a freedom on her part from all anxieties and annoyances, and a keeping-up of her spirits. She feels that my continued or constant absence would be greatly injurious to her, and an invalid's fixed belief in such a matter cannot be trifled with. The effect on her spirits of constant or continued absence or the prospect of it would certainly be very injurious.

Under these circumstances, I desire that some arrangement should be made by which I may be allowed to retire absolutely from the star-route cases, or by which the "laboring oar" in them should be in other hands, and my presence in Washington should be exceptional.

Indeed, I do not see how I can undertake to promise *any* attendance in Washington which would be of any advantage to the Government.

Of course I need not assure you that I could not, under any circumstances, lose my personal interest in the cases, or my conviction that every consideration requires that they should be vigorously pursued, and I should feel not only bound but anxious at all times to render any aid in my power, consistent with the facts to which I have called your attention; nor does it seem to me that my absence need be seriously felt.

The same ground is to be traveled over in the new trial which has already been traversed, and new counsel will have no difficulty in filling my place, though he will of course, until he becomes familiar with the facts, labor under some disadvantages; but this will be an inconvenience to himself, not an injury to the case.

Your obedient servant,

GEORGE BLISS,
Special Assistant United States Attorney.

HON. BENJ. HARRIS BREWSTER,
Attorney-General.

NEWPORT, R. I., *September 15.*

DEAR SIR: Your two letters, both within the same envelope, came here to-day. Of course your own personal convenience must rule in the matter. I can hardly entertain the idea of your leaving the case. You have been and are so essential to its safe and prosperous conduct.

Do not proclaim this proposed withdrawal in any way till we see each other, or at least until I can be back in Washington and be able to adjust matters. As to this, I must respectfully and kindly insist that you will withhold your public or private announcement of it in any way for the present.

I am, believe me, truly,

BENJAMIN HARRIS BREWSTER.

GEO. BLISS, Esq., *New York.*

UNITED STATES HOTEL,
Saratoga Springs, N. Y., September 18, 1882.

MY DEAR MR. BREWSTER: I am here at State convention.

I received your letter. Of course, if I go out of the star-route cases it must be with your concurrence, and at such time as suits you. Equally, of course, I shall make no announcement of it till you are content. As the trial is to be delayed till December, there is time enough to arrange all these matters, though the summoning of witnesses should be arranged for early in October, as many of them disappear in winter from their summer haunts.

Yours, truly,

GEORGE BLISS.

Hon. BENJ. HARRIS BREWSTER.

NEW YORK, *October 7, 1882.*

To the ATTORNEY-GENERAL:

Mrs. Bliss is pronounced by the doctors to have improved greatly—"miraculously" is their word—so that it is probable that the controlling cause for my wishing to withdraw from the star-route cases will cease to operate. I use "controlling" in the sense that it would justify me in withdrawing even against the wishes of yourself and my associates. The other reason—the loss from remaining in—would remain in force, but it is not one which, as a lawyer having gone into the cases, I should have a right to insist upon if my withdrawal was thought to injure the cases.

GEORGE BLISS.

OCTOBER 25, 1882.

DEAR SIR: I staid over in Washington on Saturday to talk to you, and hung round the Department all day, but you were absent or busy; so I must resort to paper.

I appreciate your kindness, and note your remarks passing my account. It was not intended to be a bill strictly confined to the days of trial, but rather to cover these and bring up back charges from January 1, last. But that is unimportant.

When I went into the cases no one foresaw they would take so much time. Had I foreseen it I never should have consented on *any* terms to go into them. I, however, fully informed those who employed me of the terms I ordinarily charged, and they agreed to them. When you came into the cases you agreed with me also.

I say this only as preliminary to what I am about to say.

A new trial commences in a few weeks. It will take most of the winter continuously. There are also one or two other cases which *must* be tried. The condition of my wife's health has so much improved since I wrote you some time since that what I regarded as the imperative reason binding upon, overriding all questions of professional duty, has ceased to exist. I feel, therefore, not at liberty to withdraw if it is desired that I should remain; but rather than give such continuous attendance in Washington as I have hitherto done I should prefer to withdraw, though on the other hand my belief that we succeed on the next trial, and especially that we shall convict Dorsey with the new evidence, gives me a desire to see this case at least through.

I therefore leave the question of my remaining in your hands, suggesting that it should be speedily settled, that you confer with my associates and see if they do not concur with me in thinking that I could be dispensed with without serious injury to the case.

In considering the question of withdrawal, bear in mind that with Merrick, Ker, and myself in the cases, the counsel fees must necessarily in the amounts paid to each and in the aggregate become large, so large that there will be and must be public criticism. No reduction in the rate of fees—even if counsel consented to them—

would prevent this. Lawyers' bills always have been and always will be criticised when paid by the public, no matter what their rate.

As for myself, when I went into the cases I distinctly notified those who employed me that I knew my bills would be criticised any way and I should therefore charge what I thought my services were worth, what others paid me, and would accept personally any criticism made, and they must be prepared for their share. You are not necessarily their successor in this respect, and have a right to reduce the number of counsel and their bills.

I only desire to suggest these considerations to you. I have floating in my brain a theory of adjustment under which no counsel would be dispensed with and expenses would be reduced. But it has not crystallized into shape, nor if it had could I place it on paper without liability of misconstruction.

One thing more: The First Comptroller has hung up my bill, saying he wanted to see you. I call your attention to, and assume you will not allow any subordinate officer to revise an exercise of discretion which the law vests in you.

Your obedient servant,

GEORGE BLISS.

HON. BENJ. HARRIS BREWSTER,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, October 25, 1882.

MY DEAR SIR: Your letter of the 25th of October is now in my hand. I read it with great care. It is a letter such as I supposed you would have written to me.

In the star route case you have done your duty faithfully, industriously, ably, and with the strictest integrity. Your bill I indorsed and mean to stand by. I regretted that so large a sum at once was asked for, and wished you had presented it at different times before, so that you might have collected it by installments. What was agreed to be paid you by those who retained you must be paid to you; good faith must be kept with you. In allowing it, I have not merely exercised a discretion; I have only ratified what others contracted to do.

As to the future, my conviction is that your presence in these cases is essential, and it is my desire that you will remain in them. The good of the cases requires your presence, and every consideration of prudence would make your absence a thing to be regretted. However, we will talk further or write further about this hereafter. It is a happy thing that the health of your wife will permit you to act in them.

As to your colleagues in the case, I have not conferred with them, for Mr. Ker is away; and then I only retained Mr. Ker for a special duty, because you asked for such a person—and that was the preparation of the pleadings. He has been of value since then in many other ways, but the general charge of the case I did not confide to him. I intended that he should be detailed to act under your immediate and special direction in the preparation of the pleadings, and in such other duties as you might require him to do. Mr. Merrick was retained to fill the vacancy occasioned by my withdrawal.

Upon reflection, I would prefer, as at present advised, to leave the matter of your remaining to be the subject of *our* consideration. It is due to your position and dignity that it should be a matter that would rest exclusively between us. The case is under my control officially, and I am responsible, no matter what is done, and that responsibility I would assume after a conference with you hereafter. At present, hold yourself as being advised by me that any suggestion of withdrawal is declined.

You intimate that you have in your mind some unadjusted thoughts as to the arrangement of compensation in the case, which you would convey to me hereafter. I will gladly hear anything you have to say, for I never have yet had a conference with you without feeling its advantage. My presence in the case is no cost to the Government, and what is paid to other counsel for their services is but their due. In view of all this, it seems to me that, expensive as the cases are, by my presence without any fees paid to me for extra and unusual labor, the cost is abated and reduced *pro tanto* from that which would otherwise be added to them.

Truly yours, with respect,

BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
Care Bliss & Schley, No. 160 Broadway, New York.

POST SCRIPTUM.—I inclose you copy of the Cincinnati Daily Gazette, in which there is a letter written upon the subject evidently of pursuing those Salisbury cases.

I desire you to give them attention. Do not let any delay benefit them. The statute may run, and then you would be censured. As to the tone of the article, I understand it, and the purpose of the people who wrote it.

I do most earnestly call your attention to this Salisbury matter, and all these other cases where the statute may possibly run.

BREWSTER.

[Bliss & Schley, attorneys and counselors.]

160 BROADWAY, NEW YORK,
November 4, 1882.

DEAR SIR: What did Lawrence say? What is the prospect? I want the money, and moreover want to know if it is to be paid, for if it is not, I go out of the star-route cases. I am in no mood for fooling.

Yours, truly,

GEORGE BLISS.

BREWSTER CAMERON, Esq.

[Written in the autumn of 1882.]

706 WALNUT STREET, PHILADELPHIA.

DEAR SIR: To-day I returned from Pittsburgh, and, as I had ordered, your bill and the papers were lying on my table, having been sent to me from Washington. For my own part, personally, I never object to full fees, and have accordingly signed the allowance and sent it to Washington; but you must remember that the members of Congress who are not city lawyers, but who come from the country where fees are low, will object and complain of fees at the rate of \$140 per diem, including Sundays. In New York your rate of pay is higher than in any other town in the country. Then, again, the star-route men will declaim about this, and the Democrats, who may come into the majority in the House, at least, will certainly criticise you and your charges and try to deal with me for allowing them, and especially so as you are the pronounced associate and friend of the President, they will not scruple to charge it as an act of favor partaking of a job. These ideas I give you because you prompted them in your letters to me on the subject of anticipating objection.

I have not objected. I have approved, for, notwithstanding the risk of these censorious comments from others who are unfriendly, I know how much you gave up for their cases and how much service you have bestowed.

I am, truly and with respect, your friend,

BENJAMIN HARRIS BREWSTER.

GEO. BLISS, Esq., *New York.*

Personal.

[Bliss & Schley, attorneys and counselors.]

160 BROADWAY, NEW YORK,
October 30, 1882.

DEAR SIR: Please hoist my bill out of the deadlock in the Comptroller's office, and if necessary ask the Attorney-General to intervene and assert his rights to have his decision respected. I need the money.

* * * * *

Yours, truly,

GEORGE BLISS.

BREWSTER CAMERON, Esq.

NEW YORK, November 12, 1882.

SIR: I beg to acknowledge receipt of yours of 10th. In reply I have to say that my retainer in the star-route case came about in this way: I was first applied to informally by Hon. Thomas L. James, then Postmaster-General, to accept such retainer. I declined on the ground that I had for some time declined such retainers from the Government, because there was always delay in payment, charges were cut down, and work was not appreciated. I was urged to reconsider this, and was finally sent for to meet Attorney-General MacVeagh and Mr. James at Long Branch; I there agreed to be employed. As to my rate of charges I said—and it was agreed to—that I was content to leave that to be settled by the Attorney-General then present, or his successor, but that I might be at liberty to refer his successor, if he had one during my time, to him, in case his successor's views did not agree with mine. I also stated, and it was

accepted as proper, that I had not for years accepted a retainer which involved my being away from New York City for less than \$100 a day and expenses during my whole absence; that no client had a right to require me to travel at night, and that if I worked a day and then traveled a night, I charged it as two days, and that my charge of \$100 per day did not cover what I regarded as work involving extra labor, strain upon the brain, such as elaborate argument in court and engagement in trials. I stated that I knew this would seem large to any one not accustomed to New York rates, and that I should not work for the Government for less than that; that general rate to be accepted as the basis, with possible additions and reductions, as experience might show was proper, and that the Attorney-General should be the judge as to these. My terms were accepted. By this I do not mean that there was any written agreement or any formal stipulation, but the Attorney-General and Mr. James said the matter was satisfactorily arranged, and a short time after I received a written appointment, though it did not, I think, come till after I had been at work some time, and was then made to take effect from an antecedent date, which, however, was later than my actual engagement and left me with some little time during which I had been at work and for which I have never received or asked pay.

When Mr. MacVeagh was about to leave office, I, at the request of the present Attorney-General, rendered a bill, having had one previous payment. Mr. Brewster informed me that he had submitted it to Mr. MacVeagh, who informed him that it was less than he expected, and Mr. Brewster expressed the same opinion. I called his attention to the fact that it was not rendered as in full, and was not intended to be so, as I thought that when I came to render a bill for a period covering a trial I should "even up things."

I may be permitted to add, that had I supposed the engagement would take my time so exclusively as it has, I should never have accepted it at the rate referred to, or indeed at almost any rate. It has practically taken my entire time for over a year; taken me from my home and my office. It has broken up almost entirely a business which I have spent twenty-five years in building up, and has been a thankless and unsatisfactory business. I have made more than one formal application to be relieved, and would forego much if I could now be allowed to go out of the cases. I came in unwillingly and I remain unwillingly, and at a personal and pecuniary loss. At the same time I know that the payments to me and other counsel seem and are large. But it is not my fault. I was employed with a distinct understanding of what it would cost, though it was not, I presume, supposed the labor would be so continuous. I think I may say that no time has been wasted. I have *every* day given to the Government at least *twice* the number of hours of work that the Departments exact from their subordinates, and have worked as many hours Sundays as other days. I may without vanity, and that is the opinion of every one who has had anything to do with the star-route cases, that whatever of success there has been would not have come but for my labor and perseverance.

With this statement, which I am prepared to make oath to, I now ask that my account as certified by the Attorney-General be promptly passed.

To meet one inquiry in your letter, I beg to add that the bill now before you covers all services rendered by me between May 26—I think it is—and September 13; that it covers the entire period of trial of the case of the United States *vs.* Brady and others; that it also covers services before the grand jury in presenting to them various cases against Price, two Messrs. Salisbury, two Messrs. Parker, Mr. Kellogg, and others; that it covers some preliminary motions in the case of the United States *vs.* Brady and others, and also covers much of investigation and correspondence as to other star-route cases between the dates named. Besides this, I have regarded it as to some extent covering the services rendered previous to May 26, and for which I had been paid in part. In short, it was intended to be a bill in full up to its date.

Your obedient servant,

GEORGE BLISS,
Assistant Attorney.

Hon. WILLIAM LAWRENCE,
First Comptroller.

54 WEST THIRTY-NINTH STREET, *January 7, 1883.*

DEAR SIR: You expressed a wish to me that the bills of counsel should not be allowed to accumulate. The beginning of the year seems a good time to send one in. I therefore inclose one. For the period embraced in it I have actually been away from home in the business of the Government thirty-eight days. This is in addition to much time devoted to the matter in New York.

Your obedient servant,

GEORGE BLISS.

Hon. BENJ. HARRIS BREWSTER,
Attorney-General.

WASHINGTON, *March 10, 1883.*

Mr. DEAR CAMERON: I send another bill. Aldrich is a man who was used in detective business, and dropped some time since. He was of some value, but worked out. Smith is my messenger.

As usual I want this money *at once*. This case takes all my time. I can't earn anything elsewhere nor collect anything. I am at double expense and the bills come in promptly.

So get this along. I *must* have it next week. Lawrence is away and can't obstruct

Yours, truly,

GEORGE BLISS.

BREWSTER CAMERON, Esq.

COURT-ROOM, *March 21, 1883.*

MY DEAR Mr. BREWSTER: You have a bill of mine for approval before you. I write to ask prompt action. My constant confinement here prevents my collecting, much more earning, any money elsewhere, and meantime, I am under double expense. Unless this money comes I must borrow to meet current expenses, and in these times of tight money I don't want to do it, even if I had the time.

The bill as rendered is even less than I wrote you last fall I must charge if I remained in the cases, and in the light of which you wrote me I must remain. It is *less* than I charge individuals when I had a chance to work for them.

Yours, truly,

GEORGE BLISS.

Hon. BENJ. HARRIS BREWSTER.

DEPARTMENT OF JUSTICE,
Washington, March 21, 1883.

MY DEAR Mr. BLISS: I have your letter of this date. I did not know your bill was in my office, but no one is to blame for that, for I had a bill presented by Mr. Ker, upon which I was passing, and I had directed that all bills presented should be put in the same category, so your bill has been laid aside with that of Mr. Ker's.

I have been much exercised by the remarks made to me personally as well as by public comments upon the expenses of these trials. I cannot see that any one is to blame. The expenses appear to have been absolutely necessary. When I was in Newport, and received a letter from you there, and subsequently in Washington last autumn, I called your attention to the fact that these bills would be criticised, and hoped that you would assist me to avoid it. I have your replies, in which you reminded me that the terms of your engagement were made at the time you entered into the employment. You reminded me in your letters then in this very language, "I, however, fully informed those who employed me of the terms I ordinarily charged, and they agreed to them," and that agreement made by you with them I considered it was my duty to recognize.

Again, in another part of the same letter, you say: "I have floating in my brain a theory of adjustment under which no counsel could be dispensed with, and the expenses would be reduced, but it has not crystallized into shape, nor if it had could I place it on paper without liability to misconstruction." Now is the time for us to consider the subject. Your bill, as now presented, I will approve of on account of your whole services. Will you oblige me, therefore, in furtherance of bringing this thing into some definite shape, so that neither of us may be misunderstood by any one, to give me an itemized bill of services to date, and of all moneys you have received on account of those services, and then I will consider the subject, and call your attention and Mr. Merrick's and Mr. Ker's attention to it within a short time by letter addressed to you. In the mean time I hope that you will revive those considerations that were floating in your brain as to a theory of adjustment, for I wish in this to act in perfect harmony with you, and, at the same time, to exercise that prudent control over such matters as it is my duty to do.

There is an item in your bill as now presented which has been the subject of comment as unusual. I allude to the charge for a whole section in a sleeping-car. Not having the bill by me at present, I cannot recall others, but I believe that there are no others that have been pointed out as unusual. I call your attention to this now, so that we may review it hereafter and that I may not be concluded by approving this bill.

Upon reflection, I will exclude that item and deduct it from this bill, and we can consider it hereafter.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
Special Assistant United States Attorney in the Star-Route Cases.

P. S.—Since the above letter was dictated I read it to Mr. Cameron, and he reminded me that the first paragraph of my letter is a mistake; that your bill was shown to me some days ago. He brought it into my office, he said, and told me he had it, and I told him to take it and examine it and look over it and report it to me when I called for it. That I had entirely forgotten. Mr. Cameron is perfectly correct as to that. I remember I did just say that to him, and I remember also that I did not call for it, because I intended to deal with Mr. Ker's bill at the same time that I did with yours, and have not dealt with that, because I intended to deal with the whole subject of these compensations to counsel, and convey my ideas in a letter to all of you gentlemen together; and that I might not say anything hastily, I determined to consider it carefully, and so deferred it from day to day, and then I was called away to see General Cameron, who was much hurt and ill in Harrisburg, and that still further suspended it. I never intended, believe me, to delay you or any of you gentlemen to your inconvenience or disadvantage, and that you well know.

B. H. BREWSTER.

[From Mr. Hodges's files. Received May 12, 1883.]

MY DEAR CAMERON: During your absence I sent a bill to Mr. Brewster. He wrote me a pleasant letter promising to pass it as soon as you returned. He objected to something he thought in excess of my agreement, and thought it was not so. I waived it. *I want it passed before he goes away.* Perhaps he may like to have the record show a bill reduced. If so, let them reduce the bill he has from \$6,000 to \$5,600 and approve it. As he tore off the receipt, I will call and sign it, or in case he prefers a clean bill I inclose a new one. Use either you choose. Expenses are omitted, waiting Lawrence's decision. They are small during this period, anyway.

Yours, truly,

GEORGE BLISS.

BREWSTER CAMERON, Esq.

DEPARTMENT OF JUSTICE,
Washington, May 12, 1883.

DEAR SIR: I received your letter last night, and your letter of to-day inclosing your bill. * * *

As to the other matters contained in your letter, it has been my regret all along that the business of my Department prevented me from going into court and taking my stand there, and doing my duty, as I have always done in a professional life of over forty-five years, according to my conception, and according to my experience of professional duty. I could not be present, and I consider it one of the misfortunes of my career that I have been excluded by other duties.

As to Mr. Merrick, if he is obliged to be away he must be; it cannot be helped. As to Mr. Ker and yourself, of course you must replace him if indisposition or any other cause takes Mr. Merrick away, for it will not do to have the case deserted and abandoned. I take it for granted, of course, that you will be present, and Mr. Ker will, upon Monday.

As to your bill, I must retain that until Mr. Cameron comes. You indicate in your letter that you make some special charge, an increase, which was for the duty of summing up. That I must object to. The charges made in this case have been the subject of severe criticism, and I have been made to bear the censure undeservedly. I was willing to pay you what you said was your contract as to your terms when you were retained. That of course must be complied with; the contract must be kept on both sides, but more than that the case will not bear. Cases like these are great opportunities to lawyers of merit, and the public very naturally disincline to have them considered as opportunities for gain. That disinclination leads to criticism, and it is not to be wondered at, for that is in harmony with the whole spirit of legislation upon the subject of compensation paid to the highest officials in the country. The principle is that there is dignity and honor to such high employment, and lift them clear of the ordinary considerations of mere personal advantage and gain.

I have been obliged to, as an act of duty to the administration and to myself, that I should

not appear to be recklessly allowing unusual fees, as it has been said, as an act of favoritism. I want you to help me in it, so that I may escape from any such unjust reflections. Whatever your contract was, as I have said before, that must be conformed to, and will be by me. Your bill I will hand to Mr. Cameron upon his return; he is now absent in the South superintending some prosecutions, and will be back by the 20th of the month; he has charge of these accounts, and he will examine it, and I will give him instructions to report promptly, so that you may be paid promptly. You have receipted the bill as you send it to me; I tear off your receipt and send it to you here.

I am, with great respect,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
Special Assistant United States Attorney in the Star-Route Cases, Washington.

WASHINGTON, May 14, 1883.

DEAR SIR: I have your favor of 12th.

As to my bill, I did not regard it as in excess of my contract, for that expressly provided for a further sum over the ordinary per diem in cases of extended argument, and such an argument as I made is, from the labor bestowed upon its preparation, entitled to some extra payment. However, I waive that. If reckoned by the days actually devoted to the case, the bill rendered should be reduced to \$5,600. You may reduce the allowance in the one sent you, or I will send you a further one.

I am ready at any time to co-operate with you in reducing expenses, as I have repeatedly written you. I am not willing to make the sacrifices of comfort and of business I am compelled to make for less compensation than I have heretofore charged. Nothing will please me so much as when the time shall come when you will say to me that I may withdraw. When this trial closes, I think you may properly reduce the force of counsel. You no longer need these counsel. Ker, as you know, was brought into the case for his ability as a draftsman, and has justified your selection. He naturally remained so long as his indictment was to be defended, and so long as others were to be drawn. He has, naturally, drifted into the trials, and has been very useful, especially in the pending trial. Merrick has been essential as able local counsel. As for myself, the knowledge of the facts and papers I acquired in the genesis of the case has been of value.

But with this case over—unless there shall be a new trial—this condition of things will change. Two counsel will be sufficient. If I could be permitted to withdraw, there would remain only two. But I fear Merrick would object to go on alone with Ker.

Besides, these cases should be kept free from the suspicion of politics, and, therefore, one counsel should be from each party. Perhaps it can be arranged to retain Merrick; to confine Ker's services to cases where indictments are to be drawn or defended, and to let me out, substituting in my place some counsel of the same party as myself, with whom Merrick would work in harmony, and preferably a local counsel, as he could afford to work for less compensation than one who has to leave home and business.

These are ideas I intimated to you once before. Please think of them, as the time may soon come for action, for whatever is done ought to be done after the close of the present trial, and before the delays of the summer vacation.

I assume there will be no further trials till fall, but that one or more should then take place.

As for your own past relations to the cases, permit me to say that it seems to me you have done all that the public expected or had a right to expect, and, what is more, all that any fair-minded men could expect. Your constant appearance in court was an impossibility. In view of your other duties it would have been an impropriety. In yielding your right to close to Mr. Merrick, you showed yourself above personal considerations and ready to sacrifice a great opportunity for personal aggrandizement to the good of the cause, for you rightly judged that, however great the difference in forensic ability, a counsel who had sat through a long case like this from day to day would be better prepared to deal with its infinite details than one who had prepared himself from the daily records, to say nothing of the inevitable springing upon counsel of new questions and new views just at the close of the defendant's argument.

May I add that my suggestions as to the bank-tax matter did not proceed from my clients? They have said nothing. It arose from letters received from bank people not my clients.

Your obedient servant,

GEORGE BLISS.

Hon. BENJ. HARRIS BREWSTER.

THE UNION LEAGUE CLUB,
New York, August 16, 1883.

MY DEAR SIR: Is it desired or expected that I should take part in the trial of ex-Senator Kellogg? I ask because it is *necessary* for me to know with reference to engagements for the fall and winter here.

Kellogg's trial is to be some time in October, I presume, the precise time not to be fixed till the court meets on October 8. I consider that the Government has a right to my services at the trial if it wants them, but I *must* be able to arrange my engagements here. I have to arrange for some important trials here in October and must therefore know what the Government desires of me.

As you know, I have never had any great faith that the case would succeed. If the evidence first produced by Walsh before the last grand jury were in possession of the Government I should feel differently. I speak only from Mr. Ker's report as to those letters. But the Government has neither the letters nor copies. I fear Walsh cannot be relied upon. However this may be, I, of course, should do my best if I went into the case. Perhaps some one who feels surer of success than I do would do better. Mr. Merrick and Mr. Ker are, of course, fully competent to manage the case without assistance from any one, but an attempt has been made to give a political turn to the case to the detriment of Mr. Merrick, and he as well as the Government ought to be protected from this. Some Republican ought to be associated with them. I am not sure I am the best man, but you have a right to my service.

Yours, truly,

GEORGE BLISS.

Hon. B. H. BREWSTER,
Attorney-General.

HOWLAND HOTEL,
Long Branch, N. J., August 17, 1883.

DEAR SIR: Your letter addressed to the Attorney-General, dated August 16, was received here. It has been placed with other papers, and will be handed to him hereafter.

Very respectfully,

WALTER M. WILSON,
Private Secretary.

GEORGE BLISS, Esq., &c.,
New York City.

[Bliss & Schley, attorneys and counsellors.]

160 BROADWAY, NEW YORK,
November 19, 1883.

DEAR SIR: I inclose my account, made up in the same manner as my accounts have been previously made up. I beg to ask that the account be certified by you in the usual form as payable from the appropriation for the present fiscal year, as you did on October 14, 1882, for that year.

This bill differs from my former bills in the fact that it is made up in full to date. It is made up at the same rate as previously, and as agreed upon, except that, of course, any charge for services rendered in this city is on a much reduced basis.

Your obedient servant,

GEORGE BLISS,
Special Assistant Attorney.

Hon. BENJ. HARRIS BREWSTER,
Attorney-General.

The United States to George Bliss, Dr.

1883, November 25, 26, 27, 28.

To services as follows since November 19, 1883;

IN WASHINGTON, INCLUDING GOING FROM NEW YORK.

Services in Spencer matter, four days..... \$400 00

December 16.

Services in Spencer matter, three days..... \$300 00

December 13, 14, 15.

Services in Spencer matter and examining post-office records in civil suits.. 300 00
(Attendance charged in above items was on express order of Attorney-General.)

1884, January 17, 18.

Services in Kellogg matter, consultation with Merrick, examination as to
Price, parts of two days..... 100 00

SERVICES IN NEW YORK.

November 20 to date.

In matter of endeavor to find and serve witness Walsh, including arrange-
ments with detectives, receiving reports, verbal and written, directing pro-
ceedings, corresponding with reference thereto with Department of Justice
(letters of November 20, 21, December 31, January 10, February 8, 14), with
Acting Assistant Attorney-General Merrick (letters December 6, 17, 22),
with Judge Wylie (January 29, February 4, 8), and including some atten-
tion to the matter on nearly every day..... 250 00

In matter of arrest of Spencer, preparations for argument on two motions,
correspondence with the Department of Justice, letters to or from, Novem-
ber 22, 25, 30, December 12; correspondence with Acting Assistant Attorney-
General Merrick, letters to or from, November 21, 24, 25..... 300 00

Services in examining and preparing papers for civil suits, including corre-
spondence with Department..... 250 00

MISCELLANEOUS.

Correspondence with Assistant Attorney-General Merrick as to trying other
cases, with Department of Justice as to expense examining and auditing
bills; same as to Western Union Telegraph Company; Merrick as to exami-
nation in Sixth Auditor's Office as to record of witnesses; long interview
with Kellogg and report as to same..... 200 00

2,100 00

February 19, 1884.

Received payment.

GEORGE BLISS.

CITY AND COUNTY OF NEW YORK:

George Bliss, being sworn, says that the above services were rendered by me as
special assistant attorney for the United States; that, so far as the same were rendered
outside of the city of Washington, the charge therefore is at less than the rate agreed
upon when he was retained; that the charge for the others is reasonable, and the
same is true of the services rendered outside of New York; that all of such services
were necessary and proper, and no payment has been made on account thereof.

GEORGE BLISS.

Sworn to before me this 19th day of February, 1884.

HARRY F. LAWRENCE,
Commissioner of Deeds, New York City and County.

WASHINGTON, D. C., November 27, 1883.

DEAR SIR: I am surprised to find that my bill has not yet reached the Comptroller.
Now, my dear sir, in all frankness, do you think that I ought to be asked to come here
from time to time at great loss, pecuniary and otherwise, and still not be paid? Don't
you think Mr. Merrick and I have a right to ask that, so far as is in your power, you
secure us payment for the past? This you can do by passing our accounts. It so hap-
pens that the Comptroller is just now in a condition of mind very favorable to Mr.
Merrick, if not to myself.

Yours, truly,

GEORGE BLISS.

Hon. B. H. BREWSTER.

DEPARTMENT OF JUSTICE,
Washington, November 28, 1883.

MY DEAR MR. BLISS: I wish you had spoken with me yesterday when you were talking with me, and not sent me those letters.

* * * * *

First, as to your bill. Your bill came here, I am told, last week. I did not know that it was here. Nobody is to blame for keeping it. The whole of last week I was occupied, down to Sunday afternoon, when I left the city, for the very last thing I did was with that occupation, to wit, preparing, collating, composing, correcting my annual report. Not only was I concerned in it, but especially Mr. Cameron, who, as the general agent of the Department, was obliged to be with me all the while, or with others, urging them to furnish their material, which was to be appended to the report. On that account your bill was allowed to rest a few days, but with no intention of slighting you, and you cannot say you have ever been slighted, for while others complained very seriously of the amount of your bills, and criticised the Department for paying them, I have been scrupulously anxious to see your contract (such as you reported to me you had at the time you were retained)—to see it carried out.

I do not deal with you, or with any other gentleman, in a niggardly spirit. That is foreign to my character and my disposition. But I am obliged, not only by the criticisms that have been (I think unjustly) put upon these expenses, but also by a general principle of policy, administrative policy, to be careful in the payment of such sums; and as a friend of the Administration—and I hope I do not say too much when I say as my friend—I think you would encourage me to adopt and live up to that policy which I have adopted and lived up to.

The bill which you have sent I will send to the Comptroller. I will say this: That inasmuch as you charge a *per diem*, as a result of a previous understanding with the Department of Justice and with the Post-Office Department when you were retained, that I would rather that your account had specified distinctly the days; and if there were time to ask you to do so, and you were not so urgent, I would ask you now to do it, before I sent it to the Comptroller; but as you write a letter so complaining, and an unpleasant one to me, because you appear to think you have been neglected and wronged (which I will not permit to be done to you, and which I do not think was intended), I am willing to send it, and will send the account to-day, and let the Comptroller take his own action upon it.

I would like, however, and suggest that it would be better for yourself and for the Department, that you would *kindly* give me a statement, which I can put upon file here, of the days for which you have charged, so that it may appear how this round sum is applied upon your *per diem*. Then you say that for services rendered in New York you have charged at a lower rate. On that account, therefore, that you may have the benefit of that, discriminate in your account in the *per diem* entries, specifying those days which were charged at the rate of a hundred dollars, and those days of service in New York which were charged for at a lower rate. That will certainly be no disadvantage to the Department, and certainly no disadvantage to your account when it becomes the subject of criticism in Congress hereafter.

* * * * *

Another thing. You spoke to me about that Dorsey matter. I have seen Mr. Simons, and with this I send you the fruit of that interview, and I authorize you to act in the premises according to your best professional judgment.

Very truly, yours,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
Special Assistant United States Attorney for the Star-route Cases,
160 Broadway, New York.

NEW YORK, November 30, 1883.

MY DEAR SIR: Now, to refer to the matters of your letter a little in detail. As to my bill I am quite willing to file with you a statement of days and dates. I wrote of my bill because I was informed it was being retained, a report required to be made on it as had been done with that of Mr. Ker, and that such report would be still delayed some time. This I learned at the Department. The truth is, I went to your room the afternoon I saw you to talk about that and the stenographer. * * * I hoped you would speak with me about it, but you were obviously so fagged that I had not the heart to refer to a matter which would trouble you. For the same reason I did

not speak of the matter of the bill, but went away and wrote you instead. Hence the matters were presented in the way they were.

Yours, very truly,

GEORGE BLISS.

Hon. BENJ. HARRIS BREWSTER.

DECEMBER 20, 1883.

DEAR SIR: Comptroller Lawrence definitely refuses, as I understand, to pass the bill certified by you for me as wholly payable from the appropriation for 1884, and insists upon a separation of the amounts, so that it may be stated how much of the bill is for services properly chargeable under his view of the law to the appropriation of 1883, and how much to that of 1884. In other words, he asks a compliance with the request contained in his letter of December 9 (by Deputy Comptroller Tarbell), transmitted to me by you on December 13.

While I am thoroughly clear that he is wrong, and while, if I did not need the money, I could wait and "try conclusions" with him, I prefer, under the circumstances, to yield. I have therefore to request that you will either by letter or by indorsement on the account assign the proper proportion of the total account to be assigned to 1883 and 1884.

To enable you so to do I have made as careful an examination as I could, endeavoring to fairly make the division. It is a difficult thing to do; but I am satisfied it would be fair if, of the total of \$9,200, \$4,700 is treated as for services rendered prior to June 30, 1883, and \$4,500 as for services rendered after that time.

This matter has lain so long, through no fault of your Department, however, that I would be greatly obliged if you would act at once, as I want to use the money next week.

Your obedient servant,

GEORGE BLISS,
Special Assistant Attorney.

Hon. BENJ. HARRIS BREWSTER,
Attorney-General.

DECEMBER 28, 1883.

MY DEAR FALLS: I have your dispatch this minute. I don't understand it quite. If you mean for me to specify how many days charged in the bill were in the fiscal year 1883, and how many in 1884, can't do it. Nor would it do any good, or be fair. I might in one year work all of one day and in the other year work half of a day, all both to be charged as a day. Again, the work in one time might be easy and perfunctory, at another, hard and exacting. I have tried conscientiously to divide my charge between the years 1883 and 1884 as a whole in proportion to the service rendered in each. In so doing I charged to 1884 about \$1,000 less than the Auditor had certified for to the Comptroller, because I wanted to be in the safe side relatively to the Government's view.

The fact is, I have done my best. I am entitled to be treated with some confidence by the people at the Department of Justice, when the Comptroller requires me to have a division made. I am tired of this constant treatment.

I kept no account of days. The record of the star-route case would furnish these in 1883, in a measure, but no more.

Your obedient,

GEORGE BLISS.

A. J. FALLS, Esq.

(Indorsement:) Washington, Dec. 29, 1883. Respectfully referred to the Hon. Attorney-General. A. J. Falls.

DEPARTMENT OF JUSTICE,
Washington, December 27, 1883.

SIR: I have your letter of the 9th instant, in which you say that the First Auditor has reported to your office the account of George Bliss, for services as special counsel in the star-route cases "to Nov. 19, 1883." You further state that the time when the services began is not stated, but that the last preceding account for services in the same cases were to April 5, 1883, and if this is from that date, only a part of the amount approved is payable from the appropriation for fees of attorneys in the year ending June 30, 1883.

In reply to your request that I will inform your office whether any of the service

was performed prior to July 1, 1883, and if so, what amount is payable from the appropriation for the current year, I have the honor to inclose herewith, for your information upon this subject, copy of a letter from George Bliss, esq., special assistant attorney, dated 20th instant, at New York City, in which he states that he is satisfied that it would be fair if of the total of \$9,500, \$4,700 is treated as for services rendered prior to June 30, 1883, and \$4,500 as for services rendered after that time.

Very respectfully,

S. F. PHILLIPS,
Acting Attorney-General.

Hon. WILLIAM LAWRENCE,
First Comptroller.

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,
Washington, D. C., December 28, 1883.

SIR: Your letters of the 27th instant, inclosing copies of letters from Messrs. George Bliss and R. T. Merrick, are received.

When a counsel fee for services in two fiscal years is approved by the Attorney-General, as payable to a special attorney, I am of opinion that the necessary apportionment of the amount to the several years cannot properly be made by this office, but that it should be made by the Attorney-General. I therefore respectfully request that you will please specify on the accounts of Messrs. Bliss and Merrick the sums which are approved for services in the fiscal year ended June 30, 1883, and the sums approved for services rendered in the current fiscal year.

Please return the accounts to this office.

Very respectfully,

WM. LAWRENCE,
Comptroller,
By J. TARBELL,
Deputy Comptroller.

Hon. S. F. PHILLIPS,
Acting Attorney-General.

WASHINGTON, D. C., *January 1, 1884.*

SIR: I have the honor to inclose a letter addressed to me by George Bliss, esq., relative to his account for \$9,200 for services as special counsel in the star-route cases, and to respectfully ask that the balance of his account, which he claims as payable out of the appropriation for 1884, be approved by you, and the amount payable out of the appropriation for 1883 be submitted to Congress in your estimates for deficiencies for that fiscal year.

Very respectfully,

A. J. FALLS.

Hon. B. H. BREWSTER,
Attorney-General.

DECEMBER 29, 1883.

MY DEAR FALLS:

I have yours of yesterday. I infer that I in a measure misunderstood your dispatch. What seems to be wanted is a *general* statement specifying about how many days I was engaged during each of the fiscal years 1883 and 1884 in rendering the services charged for in the bill which the Attorney-General has certified at \$9,200. So far as I can calculate from such entries and memoranda as I have, I should say that I was engaged during the fiscal year 1883 in rendering the services charged for in the bill on about 62 different days, and during the fiscal year 1884, in rendering the services charged for in the bill about 110 different days. But the week during 1883 was more continuous; took nine entire days; was more largely away from my office than the week in 1884. In my own mind I have considered that each day in which I did something in the year 1884 might be calculated as half a day, while every day in 1883 in which I did something might be calculated as a whole day. If, therefore, I had charged at the agreed rate, I should have charged for 107 days in all, of which 62 would have been assigned to the account of 1883 and 55 to that of 1884. As I charged as fee only 92 days, I, in my letter to the Attorney-General of December 20, assigned \$4,700 to 1883 and \$4,500 to 1884. If I had not been afraid that I might be considered as influenced by a desire to get as much as possible from the existing appropriation, I should have assigned more of value to 1884 and less to 1883.

All this is general and indefinite. It is necessarily so. It follows from the absurd requirement to apportion to periods each side of an arbitrary line sums for services

which were rendered right along, with no idea that it would be necessary to make such an apportionment, and to keep some kind of a record with that in view, because the Comptroller had last year ruled that no such apportionment was necessary.

You are at liberty to file this as my answer to the inquiry conveyed by your telegram, if you desire.

Your obedient servant,

GEORGE BLISS,
Special Assistant Attorney.

A. J. FALLS, Esq.

[Indorsement.]

George Bliss. Dec. 29, 1883, rel. to his account for \$9,200 in star-route cases.
Jan'y 1st, 1884, respectfully referred to the Hon. Attorney-General.

A. J. FALLS.

Col. WM. A. COOK,

Special Attorney of the United States :

SIR: As you are retained to investigate and prosecute star-route frauds, I give you notice that there has been, and still is, a persistent effort to put through the Post-Office Department a barefaced fraud. This fraud is based upon and supported by evidence manufactured in Washington and vicinity. There are officials in the Post-Office Department engaged in connection with outside parties in this attempt to defraud the Government.

I will not accept employment from the Government, as you well know, but in this case, if you are directed to make the investigation yourself, I will, without any charge, furnish the evidence to establish beyond doubt the fact that forgery and perjury have been employed to enable certain parties to obtain a large sum of money from the Government, in connection with Route 40104.

I will not disclose names or indicate the nature of the fraud until you notify me that you are authorized to make the investigation, and can have access to the original papers. Whenever you do this I will, within forty-eight hours, lay the conclusive proof of my allegations before you.

Very respectfully,

WM. P. WOOD.

WASHINGTON, *January 16, 1882.*

JANUARY 17, 1882.

Hon. BENJAMIN HARRIS BREWSTER,

Attorney-General United States :

SIR: I inclose a letter from Mr. W. P. Wood, which seems to involve matters requiring immediate attention.

Mr. Wood is an old and experienced detective—a personal friend of mine of long standing—and I do not think he would make the bold and positive statements contained in his letter if he did not believe he had facts to justify them.

Whatever (if anything) you may direct me to do in relation to the matter will receive prompt attention. Without authority from you I would not feel free to place myself in communication with Mr. Wood or to make an investigation.

Very respectfully,

WILLIAM A. COOK,
Special Assistant Attorney United States.

DEPARTMENT OF JUSTICE,
Washington, January 17, 1882.

MY DEAR MR. MACVEAGH:

I send to you with this a copy of a letter and a bill presented to me by Mr. Gibson and another presented to me by Mr. Cook.

As these gentlemen were employed by you, and most of the services for which they present their bills were rendered during your time, you will confer a personal favor upon me if you will kindly inspect those bills, and say if they correspond with your ideas of what is correct.

Of course, I do not wish to impose upon you the necessity of deciding cases in this Department after you have left it, but inasmuch as these gentlemen enjoyed your confidence, and were your chosen agents, out of respect to you, as well as from a desire to guard the Department, I have concluded, upon reflection, to ask your help in the matter.

The star-route cases, as you well know, will involve a great outlay of money, and they are cases, too, of which the public have been observant, and I will be obliged,

from a prudent regard to the public interests, to scrutinize with great care every penny that is spent in their prosecution. As to that which shall be incurred hereafter I will keep a strict and observant watch, and strive to keep everything within reasonable bounds. As to that which occurred during your time, I must solicit your help. I know it will be unpleasant to sit in judgment upon the compensation of others, but I know your independence of character, and I know your desire to see the public duties properly administered, and I wish you would in this matter kindly give me your help, for I can obtain it from no one else.

Will you please oblige me in this connection by informing me if Mr. Gibson was chosen by you as counsel to stand in the same relation to the case as Mr. Cook stands? I ask this because he never appeared in court, and never was detailed for any such professional duty. The bills of Mr. Cook and Mr. Gibson are alike, which would seem to me to be an assertion by Mr. Gibson that he had measured his relation in the case by the same relation Mr. Cook held towards it, and was, therefore, entitled to like compensation, enjoying a position of like dignity and confidence and usefulness.

I would like to know also if Mr. Gibson was not in the same relation to the case as Mr. Cook was and is; whether he did not stand in the same relation to the case as Mr. Woodward did, and if the services rendered by him, in your judgment, would be entitled to more compensation than that which Mr. Woodward would be entitled to receive. I do not know anything about Mr. Woodward's rate of compensation. I know that, acting for the Post-Office Department, he was engaged in investigations similar to those that it appears Mr. Gibson was engaged in, and therefore I assimilate the two.

When I speak of economical action in this business, and judicious scrutiny, I do not wish to be hypercritical, or severe, or mean and narrow in my allowances; I wish to be just and fair, and to be so both to the claimants and to the Government. I must understand exactly in what relation they stood towards this case, and to that end I must depend upon your help.

I am, truly, your friend,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

Hon. WAYNE MACVEAGH,
Fourth and Walnut streets, Philadelphia, Pa.

JANUARY 28, 1882.

SIR: Allow me to withdraw my bill heretofore presented for professional services in the star-route cases. While I regard the first bill as correct and just, I wish to relieve you from all possible embarrassment in relation to it, and therefore substitute the inclosed bill.

I received \$750 from your predecessor, for incidental expenses, and have credited the amount on the bill. My entire incidental expenses have been about \$1,000; so that my fee as now presented is only about \$5,000.

In view of the fact that during the seven months embraced in the bill my time has been largely occupied in the star-route cases, to the exclusion of ordinary business of pecuniary profit, I regard the bill as in fact lower than it should be; but I am anxious to have the matter speedily ended.

Very respectfully, your obedient servant,

WILLIAM A. COOK,
Special Assistant Attorney United States.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General United States.

[Law offices of Wayne MacVeagh, Geo. Tucker Bispham.]

402 WALNUT STREET, PHILADELPHIA,
January 31, 1882.

MY DEAR SIR: You need no assurance that I am very glad to give you not only the benefit of any information I possess as to the business of the Department while I was the head of it, but also the benefit of my judgment in any matter in which you care to ask it, whether such matter presented itself since you entered upon your duties or before.

You will find a letter addressed by me to Mr. Phillips stating fully the facts about Mr. Gibson's appointment, and you will also find on file the letter from Mr. Woodward, with the indorsement of the Postmaster-General, which induced me to make it. These papers will fully answer the question you ask as to the character of the duties Mr. Gibson was expected to perform.

Mr. Cook's appointment was made upon the recommendation of the same gentleman, with the addition of Mr. Gibson himself. I think it must have been contemplated that Mr. Gibson's labors would be more largely performed in the Post-Office Department, and Mr. Cook's more largely in the courts; but I do not know of any such actual distribution of functions. The labors performed by these gentlemen were performed either at Colonel Cook's office or at the Post-Office Department, and my knowledge of their extent and character, therefore, is very largely the result of their statements and the statements of others. I have every reason to believe, however, that they were both very industriously and assiduously occupied with the matters committed to their charge from the time of their appointment until the appointment of yourself and Colonel Bliss. Their labors since that date are of course within your knowledge, and I have no reason to suppose that either of them has been devoting himself to any considerable extent to any other matters than the star-route cases during the period of their employment, though they might have been so occupied without my knowledge.

Mr. Gibson's employment covers a period of eight months, and Mr. Cook's of seven months. If you find that these gentlemen have been devoting themselves assiduously and substantially, to the exclusion of other business, to the star-route cases during these periods, it seems to me that an allowance of \$5,000 to each of them would not be excessive; but as to that your judgment would certainly be as valuable as that of any other member of the profession, for your experience in matters of such consequence has been very extensive.

Mr. Gibson's report speaks for itself, but it certainly impressed me as exhibiting very remarkable knowledge of the subject, and very great ability in the presentation of it. Mr. Cook always impressed me as being very diligent and faithful, but since September you have probably been thrown into closer professional connections with him than I have been. If in your place, however, and I was acting with the lights I now have upon the subject, I see no reason why I should hesitate to approve payments to each for \$5,000. Perhaps Mr. Cook may be entitled to some addition to cover his expenses, but of that you can best judge.

Very truly, yours,

WAYNE MACVEAGH.

HON. BENJAMIN HARRIS BREWSTER.

WASHINGTON, D. C., November 1, 1882.

SIR: Allow me to call your attention to the inclosed bill for the balance due me as late special attorney in the star-route cases.

It covers the months of January and February, and a part of the month of March, 1882; and the amount is at the rate established by you and your predecessor for my services prior to January last.

I delayed presenting the account with the expectation that the cases would be ended at the late trial, and because I had no disposition to trespass on your time and attention during the actual pendency of that trial, and since its inconclusive termination I understood you were generally absent.

Hoping that, after the long delay, the matter will receive your early attention,

I am, yours, &c.,

WILLIAM A. COOK.

BENJAMIN HARRIS BREWSTER,
Attorney-General United States.

W. A. Cook, special counsel in star-route cases:

Received July 2, 1881	\$750
Received February 1, 1882	5,250
	6,000

Amount paid from June 1, 1881, to January 1, 1882.

WASHINGTON, D. C., November 17, 1882.

SIR: On the 1st instant I transmitted my bill against the United States for professional services rendered from January 1 to March 17, 1882. The reception of the bill was promptly acknowledged. Two weeks have elapsed, and I have heard nothing further from you in relation to it.

Allow me, therefore, to call your attention to it, with the hope that it may receive your immediate attention.

It includes employment and services while you were Attorney-General, and is sustained by my affidavit.

If there should be any objection to it, please let me know; I cannot conceive any.

Very respectfully,

WILLIAM A. COOK.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General United States.

DEPARTMENT OF JUSTICE,
Washington, December 27, 1883.

SIR: I have the honor to transmit herewith, for your information, copy of a letter, dated 26th instant, from Hon. R. T. Merrick, special assistant attorney-general, in which he states that you insist that the bill presented by him for services to July 30, 1883, should be apportioned between the last and present fiscal year. Mr. Merrick states that this is a difficult thing to do, as his charges are made, not by the day, but for services generally; but that he is entirely willing that \$1,500 of the bill referred to should be apportioned to the past fiscal year, and he will treat that sum as satisfied by the payment of the balance.

Very respectfully,

S. F. PHILLIPS,
Acting Attorney-General.

Hon. WILLIAM LAWRENCE,
First Comptroller.

DECEMBER 20, 1883.

DEAR SIR: The Comptroller insists that the bill presented by me as special assistant attorney-general should be apportioned between the last and present fiscal year.

As stated by me some time since, this is a very difficult thing for me to do, as my charges are made *not by the day*, but for services *generally*, as they are rendered; and in each particular bill they are also affected by what has already been previously paid.

I am entirely willing, to save all trouble, that \$1,500 of the bill referred to should be apportioned to the past fiscal year, and I will treat that sum as satisfied by payment of the balance; for under no circumstances will I be instrumental in rendering it necessary for your Department to ask a deficiency appropriation, greatly preferring to sustain a loss rather than do so.

With great respect, your obedient servant,

R. T. MERRICK,
Special Assistant Attorney-General.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, December 29, 1883.

SIR: Your account for \$5,000 for compensation as counsel for the United States in the "star-route cases" from April 2 to July 30, 1883, is before me. That account has been approved by the Attorney-General. But inasmuch as it covers parts of two fiscal years, the First Comptroller, upon its going to him, has required that it be *apportioned* accordingly. Being notified of this requirement, you have thereupon placed \$3,500 of the charge in the present fiscal year, and announced your intention of surrendering to the United States the \$1,500 which you thus assign to the fiscal year ending June 30, 1883. I transmitted that apportionment to the Comptroller, but he has returned it, requiring my *approval* thereof.

I do not find in this Department the specific terms of your engagement with the United States, if there be any such. Outside of express terms the arrangement depends, according to the custom of this office, very much upon the personal discretion of the Attorney-General. I must do nothing to embarrass the exercise of that discretion by any casual action necessitated by his brief absence—the more that he has acted thereupon frequently during the past two years, and has expressly reserved control of what has thus been done—by future official action of his own.

Upon the whole, then, I allow to-day, *without prejudice*, \$2,000 upon your account, which I believe practically leaves the whole matter to the Attorney-General at his return, upon the same footing as if he were here now; and I hope will be of no concern otherwise, as it involves a delay to you of probably only a week.

Very respectfully,

S. F. PHILLIPS,
Acting Attorney-General.

R. T. MERRICK, Esq., &c.

[Merrick & Morris, counselors, No. 1306 F street.]

WASHINGTON, D. C., *March 31, 1884.*

SIR: I have the honor to renew the request, heretofore on two or three occasions made by me, that I may be relieved from further participation in the prosecution of the star-route cases.

The most important of these cases in which it is likely any further action will be taken by the court is the case of the United States against William Pitt Kellogg, and in this case there are conditions at present existing, and others likely to arise, which, in my judgment, render my retirement desirable.

With a grateful appreciation of the legal and moral support I have received from you at all times throughout the progress of these cases, and with the assurance of my high regard for you personally,

I remain, with great respect, your obedient servant,

R. T. MERRICK.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, April 1, 1884.

MY DEAR SIR: In conformity with your letter dated the 31st of March, I consent to your renewed request to be relieved from further participation in the prosecution of the star-route cases. This is a proper time for you to take the step you do. Hitherto I have declined, because I saw there was a necessity for your presence. Now I do not see it, and I agree with you in the reasons you have given.

I am deeply obliged to you for your handsome allusion to myself, and I must add that the Government is in debt to you for the integrity, ability, and earnestness with which you have conducted these cases ever since I confided them to you.

I am, sir, with great respect, your obedient servant,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

Hon. R. T. MERRICK,
Attorney at Law, Washington.

DEPARTMENT OF JUSTICE,
Washington, July 30, 1883.

SIR: I have the honor to transmit herewith, for your approval, a bill, on account, for services. The bill is made out in the same form as the others. I also inclose a memorandum showing the dates and amounts of previous payments. The services commenced January 21, 1882.

Very respectfully, your obedient servant,

WILLIAM W. KER,
Special Assistant.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General of the United States.

DEPARTMENT OF JUSTICE,
Washington, October 31, 1883.

SIR: Some time in the summer when I was absent from the Department, in my vacation, you sent an account for services rendered in the star-route cases. I replied to you and stated that I thought that account was excessive. You responded, differing with me, and proposing to explain to me to my satisfaction that the account was a proper one. I suspended the whole matter till I could return to Washington, where I could examine the papers and speak with accurate knowledge of all the facts connected with your account for services, and your services.

When Mr. Merrick rendered his account, some time ago, in the early stage of his connection with the case, he said to me—as I would have supposed and believed he would, and as I have no doubt you will say—that he would not embarrass me in any way, that he did not wish to disturb me upon the *quantum meruit* of his account, that he would rather reduce than advance upon his charges, if in my judgment they were inexpedient. Thus far you have been paid the bills as you presented them, except one, which was reduced.

I do not now propose to consider the subject of the amount of your bill; I will suspend that; that must be reserved for future action. It is not a pleasant thing to criticise the charges of professional gentlemen retained by the Department, and I will not

now anticipate that disagreeable necessity; but the purpose of this letter is to request you, as I have requested Mr. Merrick, to render a final account for the services in the case of the United States against John W. Dorsey and others, which ended June 14, 1883. This suggestion is grounded upon the fact that the trial was a unit in itself, and ended during the last fiscal year, and that no expenses connected with it could be paid out of the appropriation of the succeeding fiscal year. Counsel were continuously employed up to that time. Since then their services have been irregular. I request this because the First Comptroller of the Treasury has ruled that counsel in the star-route and other cases cannot be paid out of the present appropriation for services in the past fiscal year.

Please, then, therefore, to furnish me with the account as I here request it. Application will then be made to Congress for an appropriation to make up this deficiency, and to pay you, with the other counsel, and that is the object of this communication.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

W. W. KER, Esq.,
Special Assistant United States Attorney in the Star-Route Cases, Washington, D. C.

DEPARTMENT OF JUSTICE,
Washington, November 8, 1883.

SIR: I have the honor to transmit herewith one bill against the United States for services rendered, and another bill for expenses incurred, and in compliance with your request, made verbally through Mr. Cameron, to submit the following statements and explanations concerning the bills:

On the 31st day of July, 1883, I presented a bill for \$7,000 for services rendered in the star-route cases, which bill was retained by you for examination and further consideration. By your letter dated October 31, 1883, I was informed that where services were rendered prior to July 1, 1883, the payment therefor could not be made out of the appropriation for the present fiscal year, and I was asked to render, in the place of the bill already presented, one for the services rendered by me prior to July 1, 1883, that it might be taken into account in an application to be made to Congress for an appropriation to make up deficiencies. I then asked Mr. Cameron to return me the bill first presented, which he did; but Mr. Cameron has this day informed me that although the bill cannot be approved, yet it is a record of the Department which should be retained in the Department, and I have handed the bill back to Mr. Cameron.

The bill which is herewith presented for your approval, is for \$3,500, for services rendered during the four months beginning on the 1st day of July, 1883, and ending on the 31st day of October, 1883.

With a number of cases, each requiring more or less attention, the cases have always been considered in their entirety and treated as one. To itemize the bill, stating how much is charged for one case or service and how much for another, would be a difficult matter, and might subject me to unjust criticism; and it would be impossible to state how much of one day was devoted to one case, and how much of the same day was devoted to another. In the absence of any fixed and determined standard, the time devoted to the cases has been heretofore and is yet considered in making a charge for services rendered. But even this, were it adopted as a positive rule or guide, would be to the manifest disadvantage of counsel, when it is remembered that two, three, or four days in each week devoted to the public cases of the Government render the remaining days of comparatively little value, resulting in a total inability to attend to cases for other clients, and the enforced abandonment of private practice.

In the month of July, 1883, three days were spent in Hartford, Conn., or in the journey to and from that place, under directions received from you. But the greater portion of the month was devoted to the case of Thomas J. Brady, charged with receiving money in relation to a contract whilst Second Assistant Postmaster-General, and in the case of the United States *vs.* William Pitt Kellogg, charged with receiving money in relation to a contract with the United States whilst a United States Senator. The object sought to be accomplished was to secure pleas from the two defendants, and to have a day fixed for the trial of one of them. On the part of Brady, demurrers and motions to quash have been filed, but not argued. On the part of Kellogg, demurrers and several motions to quash were filed. The law was examined, briefs were made, the several demurrers and motions to quash were argued, the case was decided in favor of the Government, and on the 30th day of July a plea of not guilty was entered, and notice given that on October 8 the court would be asked to fix a date for trial. The days of actual engagement during the month of July, either in court in Washington, in Hartford, or on the journey, were the 1st, 5th, 6th, 7th, 8th,

9th, 10th, 13th, 14th, 15th, 16th, 17th, 18th, 19th, 22d, 23d, 24th, 25th, 29th, 30th, and 31st.

In August I received from Mr. Cameron a copy of a portion of a letter sent by you to him, in which I was directed to answer, specifically, in writing, certain questions therein propounded. As the answer related to certain matters contained in the records of the court, I was compelled to come to Washington to examine the records, and made a report in writing, which was copied by the type-writers, and, I am informed, was satisfactory to you. This business detained me in Washington till September 2. The days actually engaged during the month of August were the 27th, 28th, 29th, 30th, and 31st, and the days in September were the 1st and 2d.

In September, during the last week in the month, my attention was directed to the fact that it would be important to communicate with Walsh, one of the witnesses in the Kellogg case, and secure a copy of testimony it was supposed that the defendant Kellogg would give in a case in New York. I called the attention of Mr. Merrick to this matter, and he advised me by all means to secure the testimony, if possible. I endeavored to ascertain where Walsh could be found, and to arrange to secure the desired testimony. I have made no memoranda of what I did on any particular day during that week in September.

In October I was engaged during almost the entire month. I went twice to New York City to try and communicate with Walsh and get a stenographic report of the testimony of Kellogg and Brady. I was not successful in finding Walsh, and as the hearing in the case in which Kellogg and Brady were to testify was abandoned, I could not get their statements. I came to Washington on the 8th to attend court in the case against Kellogg and the case against Brady, but the cases were continued till December 10. By your direction I undertook to secure a pardon for Little Horace, who was confined in the Eastern Penitentiary, and to prevail upon him to testify in the detective cases in Washington. In pursuance of that object I visited New York, Washington, and Harrisburg. Having a great many apparently insurmountable difficulties to overcome, all of which are well known to you, yet with the efficient aid and assistance received from you, the pardon was procured, the man agreed to testify, was brought to Washington, and is now in jail here ready to testify when called upon. The days of actual engagement during the month of October, in the matters above stated, were the 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 15th, 16th, 17th, 18th, 19th, 20th, 22d, 23d, 24th, 25th, 26th, 27th, 28th, 29th, 30th, and 31st.

I am, with great respect, your obedient servant,

WILLIAM W. KER,
Special Assistant United States Attorney.

HON. BENJAMIN HARRIS BREWSTER,
Attorney-General of the United States, Washington, D. C.

[Telegram.]

DEPARTMENT OF JUSTICE,
Washington, November 11, 1883.

WILLIAM W. KER,
1420 Girard Avenue, Philadelphia, Pa. :

The Attorney-General has approved your account for \$2,250, being an average of \$40 for every day actually employed. If this is satisfactory telegraph me immediately, so it may be entered in annual report to-morrow. If this is not done it cannot be paid until after Congress convenes.

BREWSTER CAMERON,
General Agent, Department Justice.

[Telegram.]

PHILADELPHIA, November 11, 1883.

BREWSTER CAMERON,
Department of Justice, Washington :

Not satisfactory, but can do no better than accept. Attend to it for me. Will be down on limited.

WM. W. KER.

[Bliss & Schley, attorneys and counselors.]

Personal.]

160 BROADWAY, NEW YORK,
January 9, 1884.

DEAR SIR: I judge an investigation is to be made of the Department of Justice. For my part I am glad of it. It will cause you, and me to less extent, some inconvenience, but it is the only way of meeting the misstatements and misinferences of the reporters and the thieves. In view of it, however, permit me to suggest that before you make any statements as to star route, Ottman, &c., you cause your records to be fully examined. I suggest this because in going over my papers I find that you have on various occasions forgotten things which had been done, a result quite natural in your mass of business and yet to be avoided in a public investigation. For instance, it has escaped you, apparently, as it had me, that the rate of payment of \$100 per day and expenses was fixed by a letter from you to McVeagh and his acceptance of it, though there had been previous verbal communications between me and Mr. McV. Again as to the civil suits—they were placed in my hands by Postmaster-General James before you became Attorney-General. You approved it in writing both before and after you became Attorney-General. Subsequently you have treated the matter as undecided where they should go and then sent the Dorsey cases to me (though you have never yet answered as to whether this covered Vaile); of course in this matter you have acted with my entire concurrence, but I wish to remind you of the record. So in the Ottman business there should be accuracy as to what was done and why and how; your records will show all this, I think.

In the civil suits I failed in my scheme to get jurisdiction of Dorsey here because Bosler died. I do not, however, give it up absolutely.

Your obedient servant,

GEORGE BLISS.

Hon. BENJ. HARRIS BREWSTER.

[Telegram.]

DEPARTMENT OF JUSTICE,
Washington, November 12, 1883.

WILLIAM W. KER,

Special Assistant Attorney, Philadelphia, Pa.:

I have your telegram about your fee. I understand that you accept twenty-two fifty in full for services to October thirty-first. As you told me you would accept whatever was allowed, on the faith of that I will put it through. I have marked it "Special" and sent it to the Treasury. If not satisfactory, wire me to recall it.

BREWSTER CAMERON,
*General Agent, Department of Justice.*DEPARTMENT OF JUSTICE,
Washington, December 19, 1883.

SIR: I had the honor to present to you to-day a bill for professional services from November 1, 1883, to December 15, 1883, the amount being \$2,280, which bill has been approved by you for \$1,200. Mr. Cameron has informed me that you say my "charges are excessive"; that I should not come here when requested by Mr. Merrick; that I should only come when required by you: that Mr. Merrick has no control over me, and that in future I must not come unless you send for me.

From this statement I am led to the conclusion that you consider that I have come to Washington when my services were not actually required, for the purpose of claiming compensation for time spent in the Government service, and that I have rendered bills for services that are excessive, exorbitant, and that I would not have rendered under other circumstances. A controversy over pay for professional services under every circumstance must be annoying, but in the present instance I can hardly express to you how much I am pained and hurt by the communication I have received. When you telegraphed for me to come here, in January, 1882, I left on the first train, dropping my business and everything. From what you told me, and what I could learn by inquiring, I imagined I would be engaged here not longer than two or three weeks. At that time I had begun to secure a paying practice. I thought the absence of two or three weeks would not seriously injure my practice, and I accepted your appointment, leaving my office in charge of a student. I worked in the Department (and you know how faithfully I worked, and how laborious the duties were) from January 21, 1882, till the 3d day of March, without being able to visit my office once during all that time. Then came the arguments in court and the trials of the cases. Whilst I was so employed in the Government service I had to let my private cases go into the hands of other attorneys; the student I left in charge of my office was absent visiting theaters, going to picnics and base-ball matches, and, as I learned from people who had

called, my office was closed nearly two months. After the first trial of Dorsey was over, I found my private business was nearly if not quite ruined; but I hired a young member of the bar to come and take charge of my office and try and save what could be saved of my business. If at that time I had resigned the Government appointment I would have been far better off. The second trial lasted till June of this year, so that from December till the close of the trial in June I never visited my office. Since then, with the exception of the month of September, there has not been a week that I have not had to come here for one or more days, rendering the balance of the week entirely useless to me. I have written to you twice before, giving you practically the same statement of my services so irregularly required. I beg leave to remind you that you have on more than one occasion informed me that Mr. Merrick was appointed to represent you in the cases, and he had charge of them. I have felt bound to come here when requested by Mr. Merrick, and to remain here when he desired me to remain. I have never remained here one day or one hour longer than was absolutely necessary.

Under some circumstances my charges might be considered excessive, under others they might not. My family has remained in Philadelphia, and apart from the great inconvenience of separation, the expense has been increased. I abandoned my business, but have paid rent and a gentleman to remain in the office, and it will take at least six months to regain what business I have lost, the great trouble being to convince people that I can remain at home to attend to their business. I have attended to every duty connected with the star-route cases and their trial, not only faithfully but without any display of a want of ability sufficient to excite comment or criticism. I have never been absent when wanted. I have performed the same services in the trials that the other gentlemen performed. I have devoted more time to the Government than either of the other gentlemen. I have been engaged in cases that neither of the other counsel have been engaged in. I have asked less, and been paid less money than either of the others. I have never rendered a bill that I did not at the time think, and swear, was just and true, and I now think the same. I do not desire to make any comparison between myself and Colonel Bliss, as his is an exceptional case. * * * In the time I have been in the Government service, I have made no money outside, and have attended to no other business; other counsel have been more fortunately situated.

The bill I rendered to-day was for services actually performed for the Government. The amount I honestly believed to be reasonable, or I would not have stated it in the bill. It may be that I will be called before a committee of Congress to explain my charges, as Mr. Cameron says. To accept the amount of \$1,200 approved by you for this last bill would not be consistent with my previous charges. I cannot present you with a bill claiming \$2,280, and accept in full settlement \$1,200. I could not make a satisfactory explanation if called upon to explain. I presented that bill in good faith. To accept the amount you allow would be to confess that I have attempted to overcharge the Government; that my previous charges were overcharges, and that my services are not worth one-half the services of other counsel. I cannot do this, and I therefore respectfully return the bill to you.

I am told that I must not return to Washington unless you send for me. I am glad you have given this direction, because it relieves me from all embarrassment in the future. I cannot afford to come here for one or two days at a time, unless the times are at long intervals, and with some regard to my own business.

I am told that Justice Wylie will give a decision in Spencer's case on Saturday. I have asked Mr. Merrick whether it is necessary for me to be in court, and he said that was a matter I must judge for myself. I will leave Washington to-morrow (Thursday) afternoon, and will not return again unless sent for by you, and I will inform the other counsel of your instructions in this respect, that there may be no misunderstanding.

I am sorry, very sorry, this complication as to pay has arisen. You have been more than kind to me, and I value your friendship and esteem above all things, so that I hope you will not think less of me because I am not able to alter my nature. But of all things I must earnestly beg you, if you have considered that I have attempted to wrong the Government, as stated in the first part of this letter, that you will banish such thoughts from your mind, and give me credit for that honesty and integrity which I know you have never heard questioned. If you can relieve me from the cases, I again ask you to let me go. If you cannot do this, then I ask you, as I have before asked you, to fix some certain and adequate rate of compensation, that any future difficulty may be avoided.

I am, very respectfully, your obedient servant.

WILLIAM W. KER,
Special Assistant Attorney.

HON. BENJAMIN HARRIS BREWSTER,
Attorney General of the United States.

HOWLAND HOTEL,
Long Branch, N. J., July 31, 1883.

SIR: I have received your bill dated July 30th, 1883. By referring to the books of the Department, I find that you have received \$27,627 within one year for services rendered. I submit to you that your charges are higher than ought to be presented. I have said, and frequently written, to all of the counsel in this star-route case that such great cases should not be made mere opportunities of gain; they are occasions of honor and distinction. Furthermore, it becomes all of the counsel to remember that their charges in these cases have been made the subject of criticism.

I will have to consider the subject before I direct the payment of this bill. I think it is too high. I think the amount for one year's services, \$27,627, is too much; and upon reflection you will say so yourself. I have referred the matter to Mr. Cameron, and will advise with him on the subject when I return to Washington.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

W. W. KER, Esq.,
Special Assistant United States Attorney, &c., Washington, D. C.

Confidential.]

POST-OFFICE DEPARTMENT,
OFFICE OF POST-OFFICE INSPECTOR,
Hartford, Conn., July 7, 1883.

SIR: Your favor of the 6th instant, asking for a written account of an interview had with General Garfield upon the subject of Mr. Cook's appointment as attorney in the star-route cases, is at hand.

I have a strong aversion to writing about parties with whom I was once associated, but in the expectation that this communication will be treated as confidential, I will give an outline of the facts.

A. M. Gibson was first employed at my earnest solicitation. After a time, through his efforts, Mr. Cook was also engaged. Gibson wrote me several letters (perhaps from New York) urging me to see the Postmaster and Attorney-General, and to press his retention. He argued that Cook was an able criminal lawyer, and, further, that from his intimate knowledge of certain sinister aspects of the courts in Washington, he could prevent the defendants from corrupting the juries.

My impression was that Mr. MacVeagh yielded somewhat passively in the matter to the importunities of Gibson.

After the employment of Mr. Cook was publicly announced I received a summons to the White House. President Garfield, in much apparent trouble, asked if I could explain how a lawyer of Cook's bad reputation came to be engaged in the case. I attempted to justify the selection on the ground that the Government would be obliged to procure portions of its evidence from the low and criminal classes, and that Mr. Cook's training and associations peculiarly fitted him to perform that part of the work. I also explained that post-office inspectors, in the performance of their duties, came down upon offenders from the outside, and that they lacked the peculiar experience which qualify one to unearth the doings of criminals in combination, or as an organized class.

Through some one Mr. Cook learned of the dissatisfaction of the President, and wrote him a letter in self-justification. This communication may perhaps still exist among the papers of Mr. Garfield.

I was present when Mr. Cook was first introduced to President Garfield. It was on the Tuesday or Wednesday evening before the assassination. He came by appointment to the Arlington Hotel, whence Postmaster-General James and I went with him to the White House.

The interview may have lasted half an hour. Mr. Cook plead earnestly that Senator Dorsey might be saved from prosecution on the ground of his great services to the Republican party. I remember that I modestly argued in reply that partisan services should not be allowed to condone crimes. The President listened patiently, but made no response to the plea for Mr. Dorsey.

At the same interview Mr. Cook further said that an agent of Thomas J. Brady had already attempted to corrupt him, and that as a measure of self-protection he had secreted a detective under the sofa in his office to be a witness to the conversation. This extraordinary avowal left a very unpleasant impression on my mind, as only a few days before I had defended the employment of Mr. Cook to the President, which I could not have done had I known that such was his method of conducting business.

The memory of Mr. Cook must be at fault respecting confidential disclosures from

President Garfield to himself, as their personal acquaintance began only two or three days before the assassination.

Very respectfully,

P. H. WOODWARD,
Post-Office Inspector.

The Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

[Office of United States Attorney, District of Columbia.]

WASHINGTON, D. C., June 1, 1881.

DEAR SIR: Referring to the interview with you this morning concerning the prosecution of certain persons charged with being concerned in frauds on the United States in connection with what is known as the star-route investigations, I desire to say that the long delay in the business of the criminal court of the District, occasioned by not having a marshal, has resulted in overcrowding my office with the work specially belonging to the criminal business of this District, and both myself and all my assistants are, owing to the near adjournment of the court, overburdened with work, among the cases, as I explained to you this morning, being many of very grave importance.

In view of the fact that these star-route cases are more of a national than a local character, and that according to report they involve a large number of persons, and will array in their defense, should indictments be found, many of the ablest lawyers in the profession, both in this city and elsewhere, and owing to the fact that the public interest in them is very intense, I do not feel, that, under all these circumstances, the whole responsibility of their management should be thrown upon me. I am well aware that your own duties will prevent your giving personal attention to the necessary details upon which successful prosecution must depend. I therefore respectfully request that, if consistent with your idea of the public interest, you designate some lawyer as special counsel for the Government in these cases, who shall have the management and control of them, and that the appointment be made at as early a day as possible, in order that the person selected may be able to prepare any indictments that may be presented.

It is not necessary to say that whoever you may appoint will have my active and earnest support and assistance.

Very respectfully,

GEORGE B. CORKHILL,
United States Attorney, District of Columbia.

Hon. WAYNE MACVEAGH,
Attorney-General U. S., Washington, D. C.

POST-OFFICE DEPARTMENT,
Washington, D. C., April 26, 1881.

SIR: Having been instructed by you to make a thorough investigation into the recent operations of the star-route service, I have already entered upon the work, and find the labor so vast that I ought to have an assistant, to be supplied by the Department of Justice. He should possess both legal knowledge and skill as an investigator.

Mr. A. M. Gibson, of this city, has already rendered me great assistance voluntarily. He has in various ways acquired no small degree of familiarity with the methods and practices to be inquired into, and has placed his information freely at my disposal. If I may be permitted to express a preference, I think his selection would prove judicious. I mention his name in this connection to President Garfield, and he seemed rather acquiescent, though he made no decided reply.

Very respectfully,

P. H. WOODWARD,
Inspector.

Hon. THOMAS L. JAMES,
Postmaster-General.

(Indorsed:) Respectfully referred to the Attorney-General, with my earnest approval.—T. L. James, Postmaster-General.

DEPARTMENT OF JUSTICE,
Washington, October 22, 1881.

A. M. GIBSON, Esq.:

MY DEAR SIR: I do not know how it happened that no written statement was sent you of your appointment at the request of Mr. Woodward, indorsed by the Postmaster-General, to assist in the investigation and prosecution of the star-route cases.

I certainly supposed it had been done at the date of their request, April 22, 1881, and I send you this note to certify that you were accordingly employed in these matters at that date.

Yours, very truly,

WAYNE MACVEAGH,
Attorney-General.

WASHINGTON, D. C., January 16, 1882.

SIR: I respectfully submit the inclosed bill for services rendered in the investigation and prosecution of the star-route cases.

As I have had no compensation since my employment on April 22, 1881, I trust you will cause an early disposition to be made of my case.

Very respectfully, your obedient servant,

A. M. GIBSON.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

WASHINGTON, D. C., January 1, 1882.

The United States to A. M. Gibson, assistant attorney, Dr.

To services rendered from April 22, 1881, to date, in the investigation and prosecution of the star-route cases..... \$7,500 00

WASHINGTON, January 28, 1882.

SIR: I desire to withdraw the bill I submitted a fortnight since and substitute the inclose. I do this at the suggestion of the late Attorney-General MacVeagh, who says he will cordially approve my bill for \$5,000.

Very respectfully,

A. M. GIBSON.

To Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, February 2, 1882.

MY DEAR COLONEL BLISS:

Now, when Mr. Gibson's account is to be paid, I wish to talk with you about his further retention and what it will be proper to detail him to do.

Pray see me about that before you leave for the week.

Very respectfully,

BENJAMIN HARRIS BREWSTER.

[Telegram.]

CHICAGO, ILL., March 18, 1882.

Hon. BENJAMIN HARRIS BREWSTER, Washington:

Will call on you Tuesday morning. I, in mean time, will accept no retainer against the Government.

R. T. MERRICK.

DEPARTMENT OF JUSTICE,
Washington, D. C., March 28, 1882.

DEAR SIR: After our frequent conference upon the subject of retaining you to act on behalf of the Government in the prosecution of the star-route cases, I have concluded to invite you by this formal letter to accept the position in those cases which was occupied by me, and relinquished when I was advanced to my present position. As I have before said to you, it is my intention to continue in the cases, and be present in court, and take such active part as my other duties would permit me to do. I have, however, some serious misgivings as to my being able to be present at all times during the conduct of those cases in court. In view of that, Mr. Bliss will need the aid of some experienced colleague. It would be unfair to him to cast the whole burden of the cases upon him when I would be obliged to be absent.

He and I have conferred together upon the subject. As an act of courtesy and duty to him, I have submitted the whole subject to his consideration, and he has cordially assented to the proposed invitation that I now convey to you by this letter.

Please therefore advise me by your earliest opportunity, in a formal way, if you will accept the appointment I now tender you, so that I may direct the proper evidence of authority to be furnished you, so that you may forthwith unite with Mr. Bliss in the professional performance of all the duties that are necessary to secure the prompt and energetic trial of these cases.

I am, sir, with great respect, your obedient servant,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

RICHARD T. MERRICK, Esq.,
Washington, D. C.

[Merrick & Morris, counsellors, No. 1306 F street.]

WASHINGTON, D. C., March 29, 1882.

DEAR SIR: Your favor of yesterday was received this morning. Since our first interview on the subject of my participation in the star-route cases as counsel for the Government, I have been seriously considering whether I could, in justice to other professional engagements, assume an undertaking which will be so exacting, demand so much of my time, and require so much labor. To reach a conclusion satisfactory to myself, it became necessary that I should look somewhat into the cases, and but for this I would certainly have given an earlier reply to the flattering suggestion you made to me some days since.

I have concluded to accept the position you propose that I shall occupy in the cases, as successor to that vacated by you on your appointment to the office of Attorney-General, and will, in conjunction with Mr. Bliss, and relying upon you for such assistance as your official duties may give you opportunity to render, endeavor to secure for the cases speedy trial and a thorough investigation.

I am, sir, with great respect, your obedient servant,

R. T. MERRICK.

HON. BENJAMIN HARRIS BREWSTER,
Attorney-General of the United States.

DEPARTMENT OF JUSTICE,
Washington, October 30, 1883.

MY DEAR SIR: When we first began to treat with each other upon the subject of your charges in the star-route case, shortly after you rendered your first or second account, you said to me—as I would have supposed and believed you would—that you would not embarrass me in any way; that you did not wish me to be disturbed upon the *quantum meruit* of your account; that you would rather reduce than advance upon your charges, if, in my judgment, they were inexpedient. Thus far you have been paid the bills as you presented them.

Your last bill, when it was sent to me, together with the account of Mr. Ker, were both laid aside for reflection before I would undertake to act upon them, and I advised you so, either by letter or directly, or by what was stated to you by Mr. Cameron by my orders. I advised Mr. Ker so directly. I do not propose now to consider the subject of the amount; that must be reserved for future action, as it is not a pleasant thing to criticize the charges of a professional gentleman retained by the Department, and I will not anticipate that disagreeable necessity now. But it is now my purpose to request you to render a final account for the services in the case of the United

States against John W. Dorsey and others, which ended June 14, 1883. This suggestion is grounded upon the fact that the trial was a unit in itself, and ended during the last fiscal year, and that no expenses connected with it could be paid out of the appropriation of the succeeding fiscal year. Counsel were continuously employed to that time. Since then their services have been irregular. I request this because the First Comptroller of the Treasury has ruled that counsel in the star-route and other cases cannot be paid out of the present appropriation for services in the past fiscal year.

Please, then, therefore, to furnish me with the account as I here request it. Application will then be made to Congress for an appropriation to make up this deficiency, and to pay you, and that is the object of this communication.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

RICHARD T. MERRICK, Esq.,
Special Assistant Attorney-General for Star route Cases, Washington, D. C.

WASHINGTON, D. C., November 14, 1883.

DEAR SIR: On the 30th ultimo I had the honor of a consultation with you on the subject of one of the pending star-route cases, when it was determined that I should visit New York City on the following day on business connected with that case.

Your favor of the date above referred to was received on the 31st ultimo, a few hours before I left for New York. I was, as you are aware, detained in that city for several days, and since my return have been engaged at the trial table.

These circumstances must excuse the delay of a formal reply to your favor of the 30th ultimo, and also to your favor of the 10th instant.

The duty with which I am charged by the language of the commission, under which I have the honor of holding the position of special assistant Attorney-General, is "to aid in the prosecution of certain persons charged with being concerned in frauds on the United States in connection with what is known as the star-route investigation."

There are a large number of cases embraced within this designation, and I regarded them as constituting altogether *one professional undertaking*, and in the bill referred to in your letter I have so charged for my professional services.

The services for which a charge is made in that bill were rendered in the month of July of the present fiscal year, as well as during the months of April, May, and June of the fiscal year ending June 30. They were services rendered not only in the case of the United States against Dorsey, Miner, Peck, and others, on the charge of conspiracy to defraud the United States, but also in the case of the United States *against* Thomas J. Brady, and the case of the United States *against* William Pitt Kellogg, in which indictments have been found under section 1782 of the Revised Statutes of the United States.

It would be a difficult undertaking for me to apportion between these respective cases and others, which also received attention within the periods specified, the charge for services rendered generally in the star-route cases, according to the language of the account.

Neither would it be much easier to cut those services into parcels and ascribe one parcel to a period anterior to the present fiscal year and another parcel to a period within the present fiscal year.

I presume no reasonable professional gentleman familiar with the services I have rendered in these cases, and capable of forming a just estimate of professional labor, will question that the amounts I have indicated as properly due in this and other bills, heretofore presented, are considerably less than would be regarded as adequate compensation to counsel in the course of an ordinary litigation between private parties of equal extent and importance.

I am gratified to know that my accounts have uniformly met with your approval, and am especially relieved to learn, from your favor of the 10th instant, that the language used in your favor of the 30th ultimo, which apparently indicated that the bill presented on the 30th of July last might be subject to criticism, will not bear that construction, as you say you have not yet "seen or read that bill."

When I learned from your favor of the 30th ultimo that there was some difficulty in regard to paying that bill, by reason of the charge therein being generally for services rendered in the past as well as in the present fiscal year, and that it was your purpose to appeal to Congress for a special appropriation, I requested to withdraw the account I had filed in your Department, and did withdraw it. My purpose was to have no complications about this matter, and to withdraw the bill *altogether* rather than suffer any; but in compliance with your request I now return it.

I will add that I cannot understand why an account for continuous service, extending from one fiscal year into another, cannot be paid for in full during the latter year. It was in accordance with this view of the law, and the power and duty of the Treasury Department, that the accounts presented last year for services in these cases were settled and paid.

There is in this respect no difference whatever between the bill presented by me in October, 1883, and the bill I now return to you, bearing date July 30, 1883.

With great respect,

R. T. MERRICK,
Special Assistant Attorney-General.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General of the United States.

DEPARTMENT OF JUSTICE,
Washington, November 16, 1883.

SIR: Your letter of November 14 has been received, inclosing your account, which will be examined and then considered. As you remind me, I have heretofore directed your accounts to be paid as they were presented. I have done so out of courtesy to you as a professional gentleman that I respected. Nevertheless I have not forgotten the very proper suggestion you made to me—that you always intended that I would, when the time came, exercise my judgment as to their amount, and that you would gladly acquiesce in any such judgment as I would enter. The different payments that have heretofore been ordered by me have not been made merely because I had regard to what had been done. They were made as fees are generally paid to counsel—almost always paid to counsel during the progress of the case—in consideration not only of what has been done but what is to be done—and frequently, if not always, anticipating services not yet given, from the very necessity of the case, as far as the law would permit me, for I am forbidden to pay any round sum or any given sum in advance for services to be rendered; yet, nevertheless, necessarily, in the progress of a case like this—a long protracted case—running through more than a year and a half of preparation and of service given from time to time, the compensation could not be computed as one would compute the value of goods or of labor paid for at stated times, given for stated periods and stated rates; but the whole compensation must be adjusted at the end, and not be made finally from time to time, each payment being a new start of a new service, as distinct as if for daily labor.

However, as I said and wrote to you before, I have not seen your account, for while it was sent to me at Long Branch during the summer I did not look at it, for I had returned Mr. Ker's account with instructions to postpone it, and when I received yours (as can be seen upon the jacket), I took my pencil and wrote a short memorandum, returning it with instructions to hold it until I could examine it. I did not even open it and read it, for I thought that was not the place to do it; and then I wanted an opportunity to see your whole account, see how it stood, for I had no recollection of the amounts that had been paid to you, and as I had held up Mr. Ker's account for a like reason, I thought I ought to do the same with you, not in any spirit of criticism and unkindness, but as an act of duty to you, and to the public too.

As to the other considerations which I observed in your letter (which I glanced at), the object of which is to avoid the ruling of the First Comptroller—as to those considerations, I have not entered into them at present, having no time to give them reflection at this moment, for I am busy with my annual report, but I will think of them, and I hope they will be strong enough to persuade Mr. Lawrence to pay you the amount that will be allowed you.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

Hon. RICHARD T. MERRICK,
Special Assistant Attorney-General for the Star-Route Cases, Washington.

DEPARTMENT OF JUSTICE,
Washington, December 20, 1883.

MY DEAR MR. KER:

Your letter of December 19 has just been received. You must not misunderstand what has been said to you. When I hesitated to allow your account, Mr. Cameron, by way of excuse for you, said to me that it was his impression that because Mr. Merrick

brought you here so frequently that there was a necessity to consider the expense it incurred, and I ought not to forget that, and then I told him that you should not come unless you were sent for by me. Now, remember that these expenses in this star-route matter have been the subject of very harsh reflections upon me, such as I ought not to suffer under. I sent for your bill to see what you had received and I found that you have received near \$30,000 for the service you have rendered in this case in about sixteen months, and that is a very large sum of money. This you know, and must remember, and ought to remember. If during that time you could have made more than \$30,000 in Philadelphia, I will ever regret that you came here.

Mr. Cameron meant nothing harsh in what he said to me, nor did I nothing of the kind. That was not the intention. Nor was there any belief that you came here for the mere purpose of running up bills. You have drawn a false conclusion from what Mr. Cameron said. I talked of these bills as excessive, as they all are in the eye of the world—very high; and the expenses that I have had to carry, and the reproach that I have had to bear. I talked of them very earnestly and warmly to Mr. Cameron.

What can I do? I have treated you all like gentlemen; I have never higgled with you; I have never put you to terms after you began; I just treated you as I would brothers. Mr. Bliss stood upon a contract which has been thought by the public press and public men to be a very heavy one, and Mr. Merrick and yourself are said to have charged too high. Others have thought sometimes these charges were more than they should have been, considering the dignity of the employment, which was and ought to have been treated as above the level of mere employment for gain.

When you came here in January, 1882, it was my intention only to retain you for two or three weeks, and I was surprised some time afterward to learn that you were retained longer. Mr. Bliss and Mr. Merrick found it necessary to have you, and I assented to what they did, and I think they did right. You have worked faithfully and ably and efficiently, and you have given a great deal of time. I did not know anything about your private business or your private affairs. I assumed that if you staid at the instance of Mr. Bliss and Mr. Merrick, you remained by your own will, and because you had made such arrangements to be here as would make it convenient for you, and I am sorry to learn from you that you have been hurt by doing it, and lost better opportunities; and I regret that you did not resign the appointment if it has injured you and prevented your securing better and more lucrative employment. I knew you were going to Philadelphia each week, and I assumed that you knew the condition of your affairs and could control them.

I do not complain that you "came at Mr. Merrick's request," but I would rather that I should be asked before you come, particularly as I am subject to this sharp and very bitter censure about expenses. I do not believe that you have "loitered here and wasted your time unnecessarily." I am perfectly satisfied with the nature of your services; I think they have been of great value to the cases, and I think they will be of great credit to yourself.

It is true that you have "performed the same services that others did," but as I have before stated, Mr. Bliss made a contract, and Mr. Merrick ranks very high here at this bar, and the world will expect, and I ought to make, a distinction between your rate of compensation and theirs, and that with no spirit of disparagement. Your position as junior counsel would require me to do so.

Of course you "swear to your bill," and "believe it to be true"; I have no doubt you do believe it to be true. You have a firm conviction that you have a right to it, or you would not swear to it. But then I am the judge under the circumstances, and I am sworn, too, to judge correctly, according to the best of my judgment, having a due regard to what is just toward the Government as well as toward those that are employed by it.

If there is an investigation by Congress, as I believe there will be, and as I hope there will be, if any one thinks wrong has been done or explanation needed, you will certainly be called before a committee of Congress to explain your charges, and I told Mr. Cameron to say so; and so will Mr. Merrick and Mr. Bliss, and that, of course, you all know and must look for. I have reduced your present bill to \$1,200 because I take the entire amount that you have received for your services into consideration, which is very near \$30,000, if not \$30,000. The fact that you presented the bill and "believe it to be correct," you will certainly not assert should be binding upon me in determining the real measure of compensation. I must exercise some discretion in this business—some judgment. I give a special certificate upon the subject, and my judgment is as much to be considered as your own. I do not accuse you "of attempting to overcharge." You have estimated your services according to the standard of your former charges, but I intended at the end, and have intended all along, when I settled with all of you gentlemen, to have regard to the entire sum. The rate of charge that has been made has been high, not low or moderate.

Of course I do not "think any less of you." I think as much of you as ever; and you had a good right to express yourself fully and clearly upon this subject. I do

not think that you "have endeavored to impose upon or wrong the Government." You have rendered an account, as thousands of other accounts are rendered, to be subject to inspection, and to the judgment of the officer whose duty it is to inspect it and pass upon it. I have no other feeling than one of respect for you, and I must thank you for all you have done in trying to sustain and uphold me in what I have been pursuing with so much labor and so much vexation.

But as to your account, I will lay that aside and consider the subject. I do not want to do a harsh or an unkind thing by you, and I will not by anybody ; and I see that you must have been very much pained, or you would not have written such an unhappy letter. However, I am glad you wrote it, because it is better for a man to speak out what he thinks.

I am, truly, your friend,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

W. W. KER, Esq.,
Spl. Asst. U. S. Att'y, in the Star-Route Cases, Washington.

PHILADELPHIA, January 3, 1884.

SIR : Your letter to me under date of December 20, 1883, in reply to mine to you, dated December 19, 1883, has been thoroughly considered.

I begin this answer by expressing to you my thanks and great gratification at the evidence of your confidence and personal regard which your letter contains. I have tried to do my duty to you and the Department of Justice since I was professionally engaged by you in the star-route cases and other professional employment devolved on me. I take this occasion to say to you, it so happened in my relations with the cases, and the papers and witnesses it was my duty carefully and critically to examine, that I thus became informed of many matters no other of the professional gentlemen who were in the cases could know without the same line of examination. This labor laid on me became constant, and taxed my time and health far beyond my mere service as one of the counsel. This I state now only to inform you of the entire surrender of my time to a duty with which you honored me. This relation was known to many persons, and, therefore, I became unconsciously to myself identified with the history of the cases.

You may remember, I came to Washington at your request ; you may remember, you told me I must not leave until the cases were tried in court ; you may also remember, in all our interviews, from the first to the last, you never intimated that my engagement as counsel had terminated, or that you expected it to end without some official notice to me.

As to the compensation for my professional services, and the last bill rendered by me, while I do not believe in any event I have charged more than a just compensation, yet I do believe, after full reflection, that I am bound to submit entirely to your decision, which I now advise you I most cheerfully do. It is proper to remark that this conclusion is arrived at after consultation with friends to whose advice I promptly submit. If the compensation I have received is divided into fees received by me, and a very large amount of expenses paid by me at the time as immediately necessary, where no chance occurred to make a minute of the amounts paid and the emergent demand for them, you will find I have not had so large a fee as the statement thus unexplained suggests.

I am, with great respect, your obedient servant,

WILLIAM W. KER,
Special Assistant Attorney.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General of the United States.

DEPARTMENT OF JUSTICE,
Washington, January 4, 1884.

SIR : Your letter of January 3 was received to-day by me. It is very satisfactory in its tone, and such a letter as I would like to have received from you. All that you say I will remember and consider hereafter, with reference to these cases that you have had in charge in conjunction with the other gentlemen.

I will inform Mr. Cameron about your decision as to your fee, and he will communicate with you, so that you may procure it promptly.

I need hardly say that the letter is a very acceptable and gratifying one to me. Of course, in the future transaction of the star-route business, especially the Kellogg case, I must turn to you, and will turn to you.

Truly and respectfully, your friend,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

WM. W. KER, Esq.,
Attorney at Law, Philadelphia, Pa.

[Merrick & Morris, counselors, 1306 F street NW.]

WASHINGTON, D. C., *January 7, 1884.*

DEAR SIR: During your absence from the city, on the occasion of your recent visit to New Orleans, I received a letter from Colonel Bliss, suggesting that as neither the Kellogg case nor the Brady case could be tried at present, it would probably be expedient that we should get some of the other star-route cases, of less difficulty and importance, ready for hearing and have them disposed of.

I replied to Colonel Bliss's letter, stating that I would see you in regard to the subject as soon as you returned, and that it was my purpose to ask your permission to withdraw from all of the star-route cases, except the two I have particularly indicated above; and that, whilst I would be much gratified if I could get rid also of those two, nevertheless there were circumstances connected with them, as he was aware, placing me under such professional obligations to you and to the Government, that I felt compelled to remain in them until they might be finally tried and disposed of.

There are a number of indictments pending for perjury, procuring, executing, and filing fraudulent bonds, &c., in connection with star-route matters that should be tried; but I am inclined to the opinion that they do not require, in their management, any other special counsel than Colonel Bliss himself, and I beg that you will release me from my duty in connection with them under the appointment you did me the honor to confer upon me as special assistant Attorney-General.

Please notify me at what hour it will be convenient for you to allow me the honor of an interview upon the matter referred to.

With great respect, your obedient servant,

R. T. MERRICK,
Special Assistant Attorney-General.

Hon. BENJAMIN HARRIS BREWSTER.

JANUARY 8, 1884.

DEAR SIR: With reference to my bill, pending before you, I assume that Mr. Falls has filed my letter of December 29, as to distribution of time. I am now asked to say how many of the days for which I charge were for days in which I was in Washington and how many in New York. The whole bill covers, as stated in the letter just referred to, services rendered on 172 different days. Of these, I should say that about 40 days were in Washington, most of these being during the fiscal year ending June 30, 1883. There are a few days when I was not in court as to which I am not able to say definitely whether I was in Washington or here. When I was allowed to charge for my expenses, in addition to services, which was part of the original agreement with me, my bills for board, &c., enabled me to keep a record of time in Washington. When, in deference to objections of the Auditor, I voluntarily discontinued that charge for expenses, I failed always to keep as complete memoranda as I should have done if I had supposed there was to be this division and subdivision which the Comptroller's change of ruling seems to render necessary.

Your obedient servant,

GEORGE BLISS.

Hon. BENJ. HARRIS BREWSTER,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, January 10, 1884.

MY DEAR SIR: Your letter of January 9 has been received. An investigation should be made, and I hope it will be. If there is anything wrong in the Department of Justice I will have to learn it, and I would like to learn it, because I will be the first to condemn it and strive to correct it.

I have a vivid recollection of all that occurred with reference to the fees, and everything connected with these transactions. You yourself stated to me and to Mr. Cameron, in so many words, and have repeatedly restated it since in your letters to me, and verbally also to Mr. Cameron and to myself, and I have repeatedly alluded to it in my letters to you, that at the time you came here it was distinctly understood between you and those that called you here that you were to get \$100 a day at least, and your expenses; and it was upon the faith of what you stated, because it was a contract, that I sustained it. The purpose of my correspondence with Mr. MacVeagh was to learn from him if he thought the sum was inordinate. I accepted it because you had so fixed it yourself, based upon your prior understanding, as reported by you to me.

I thought the sum was a proper one at the time, and under the circumstances, but I have thought, at different times while the case was pending, as it was prolonged beyond the expectation of every one, that perhaps the sum ought to have been abated after the knowledge of the large aggregate amount. But you were so positive as to your right to demand the amount, that this autumn a year you wrote a letter that is now on file in the Department, and which letter you will remember the minute I tell you of it, threatening to leave the case unless your money was paid. What could I do at that time but pay your bill, even though it was criticised by the First Comptroller; pay it because you claimed it as the result of a bargain made before I came into the case; pay it because I thought you had earned it. And if I doubted it, what was I to do? Let you leave the case, and expose myself to the imputation of damaging the whole prosecution, and have the Department charged with doing so with the purpose of aiding the accused? I could not help myself.

I have no objection to say anywhere that I think the fee was a proper one, and never had any objection to it; but I have thought, I say again, that considering the criticism we were all exposed to, I for allowing it, and you for receiving it as a member of the party, that perhaps it would have been well to have abated the amount, and I have said and written to Mr. Merrick and Mr. Ker, and to you, that this employment ought not to be considered an occasion wholly for gain, as it was a great honor. Of course, the subject will have to be examined, and whatever there is in it will have to be shown by the records of the Department, not by any man's say so, one way or the other.

As to the civil suits. As I now remember it, you were requested to take charge of them by Mr. James, and so you told me. In fact, all I learned about what had been done prior to my coming into the office I learned from you, and I had to depend entirely upon what you stated, and I have no doubt you stated what was correct. I relied upon you because I confided in you and respected you. Of the civil suits since then against these parties, the only one you have had charge of thus far has been the suit against Dorsey and that was sent to you to New York in consequence of your correspondence with me requesting that it should be, pointing out how you might be able to secure the money.

I thank you, however, for your kind and polite letter. Again, I say, if there is anything to inquire into I hope it will be inquired into, and if there is anything to expose I hope it will be exposed. One thing I know, that I never have done a thing in this office that I have not done it from a desire to do my public duty in an honorable, upright way, and with an eye single to the interests of the public; with no advantage to myself in any way, political or personal.

I have striven to do my duty, and I believe I have done it, and done it correctly, and I do not hesitate to confront any investigation, and rather request it and desire it. I have known all along that there would be one, and I believe now that there ought to be one, in the face of these accusations and complaints.

Very truly, yours,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

Col. GEORGE BLISS,
Special Assistant United States Attorney, &c.,
160 Broadway, New York City.

JANUARY 10, 1884.

SIR: I am now notified that you desire from me a statement of how much I charge for time in New York as contradistinguished from Washington. I have got about tired of the inquisition to which I am being subjected, and quite inclined to fall back upon the strict letter of my agreement with Mr. MacVeagh, as originally made directly with him, and put in writing in a letter to him by yourself before you became Attorney-General.

The facts are that when employed by Mr. MacVeagh I told him that I had never of late years undertaken work which took me away from my office without getting a minimum pay of \$100 a day and expenses; that I should expect that at least; that for extra work, as preparation of an argument or anything requiring a strain, I should expect more; but, on the other hand, if absences from my office were for continuous days, *if not so prolonged as to break up all other business*, some remission might be made. In writing to Mr. MacVeagh you left out all these qualifications as to time and place, and wrote him broadly we should each expect \$100 a day and expenses. I rendered my bills without making them "in full," on the general basis of \$100 a day and expenses while away from my office, usually charging nothing for work done here. When on one occasion I claimed the right to add, from the strain of preparation for a long argument, you rejected it and I yielded. The next thing was that expenses as such were cut off by a decision of the Auditor, and to save trouble they were dropped.

Now, as to time in New York or in Washington, I cannot undertake to fix a rate per diem for what was done here; for it was done sometimes occupying all day, sometimes occupying an hour or two; sometimes interfering with other business, sometimes not. On at least two occasions I was compelled, in order to give the necessary preparation for matters I was summoned to attend to in Washington, to forego or return retainers amounting in the aggregate to nearly or quite as much in value to me as the bill now before you. In arriving at my charge for matters not in Washington, I judged by my general knowledge of the aggregate of work done by me and the circumstances under which it was done, precisely as I would in the case of any other client. You have already passed my bill in the aggregate at \$9,200. Of this, the Solicitor-General has allowed on account \$2,500. In the endeavor, at your request, to divide and subdivide an account for services in their nature continuous, I have gone into all the detail that I can.

In reply to the specific question as to what rate I charged per diem for services in New York, I answer that I charged no rate per diem specifically; that there were days in which the work I did was worth \$100 or more; there were other days when \$20 would cover it; there were other days when the amount was so small that it would not enter into a per diem calculation, but went to swell the general aggregate of work done for which I am entitled to be paid.

I can do and say no more as to this account. By the strict agreement I am entitled to and could enforce as against an individual, if I counted expenses, &c., not less than \$13,000—I think \$15,000—where I have charged \$9,200. If I had the bill to render over again I should probably charge it advantageously to myself in aggregate, and in the attempt to comply with the requirement to do what is, strictly speaking, impossible, assign accurately a portion to 1883 and to 1884, I should certainly, without decreasing the amount for 1884, increase that for 1883, for I could swear conscientiously to not less than 70 days' work prior to June 30, 1883, for which I have not been paid *in full*, to say nothing of at least \$2,000 of expenses, of which I could give itemized vouchers.

You have kept me in these cases against my desire expressed and insisted upon to get out. I warned you in writing that there would come a clamor about amounts, and told you that if I was to remain in the cases I should not abate my charges and that you must be prepared to take your share of the responsibility. I will do everything to aid and relieve you, but there comes a point where I can do no more. After you shall have acted one way or the other in this account, or rather in apportioning the amount between 1883 and 1884, I shall desire to say something as to the future.

Your obedient servant,

GEORGE BLISS.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

WASHINGTON, D. C., January 18, 1884.

DEAR SIR: "I am resolved that he must resolve what he will do, or I will retire. I will not incur expenses and turn my back on my home and affairs to be hereafter haggled with and probably maltreated and slighted. That I will not bear with."

So wrote Benjamin Harris Brewster, counselor at law, to me, on November 9, 1881.

He had previously, on October 28, 1881, written to Wayne MacVeagh, Attorney-General, "I repeat here what was expressed last night as to the rate of compensation

to be allowed us while we are in charge of these cases, and that was we are to be paid each \$100 a day while occupied in the cases, either out of court in the preparation of them or in court in the trial and argument of them, together with our expenses."

To that Mr. MacVeagh agreed, and on December 19 following you wrote me about your own bill, referring to the amount you were entitled to "under our agreement with MacVeagh," and under that we were both paid \$5,000, just before you became Attorney-General, on bills approved by Mr. MacVeagh, and as to mine you told me that Mr. MacVeagh expressed surprise that it was not larger.

On September 14, 1882, again on October 7, 1882, and again on October 25, 1882, I wrote you, asking that I be allowed to retire from the cases, assigning as one ground that the agreed compensation was inadequate, and I then told you that the amount of compensation would be criticised; that I "knew my bills would be criticised any way," and that I charged "what I thought my services were worth, what others paid me, and would accept personally any criticism made," and that you "must be prepared for" your "share." This was language I had used to MacVeagh, as I remember, and then called to your attention.

You decided that I must remain. Again this summer I applied to withdraw. You declined to consent.

I have rendered a bill which *as a whole* you have certified. Had you certified it, as you did that of a year previously, as payable from the present current year's appropriation, I have reason to believe it would *all* have been paid before this. You chose to change your form of certificate. I thought I had cause to complain of this, but did not. As a result the Comptroller required the account to be split up. I have since been required to make statement after statement. I have done it, and even then my account remains unpassed.

Under these circumstances the quotation with which I began my letter becomes appropriate—I am being "haggled with," if not "maltreated"; "that I will not bear with," and I find no reason why I should bear with it, because there is the outcry of which I warned you and the investigation.

Personally I want to do anything for you, but this "haggling" as to details, after you have approved the total, touches me keenly. It is not the money, but the course pursued. If you don't mean to pass the bill I desire you will say so. I shall never again say a word as to the matter.

Your obedient servant,

GEORGE BLISS.

Hon. BENJAMIN HARRIS BREWSTER.

DEPARTMENT OF JUSTICE,
Washington, January 19, 1884.

DEAR SIR: Your letter dated Washington, January 18, 1884, was received by me to-day through the mail from New York. When you were last in Washington Mr. Cameron told me that you had such letter in your pocket relating to your account. He told me this when he repeated to me what had passed between you and himself with reference to the Kellogg case. You showed that letter to Mr. Cameron. I sent for you to give you an opportunity to speak or to present the note. You came, and I called your attention to the Kellogg case, conversed with you fully upon the subject, as I had about an hour and a half before went over the whole matter and concluded it, and then waited to have you produce the letter, or to say whatever you might have to say upon the subject of your account. As you did not see fit to allude to it I did not call your attention to it, thinking that you might wish to reconsider what you had written. You took the letter away with you, and sent it to me.

I wish you had spoken to me plainly all you had to say, and I would have listened to it, and endeavored to answer your views. The tone of your letter is an unpleasant one. You seem to be in an unhappy, disturbed state of mind, and approach the subject not in a business-like way, and with some asperity of language. Let us treat of this in a business-like way, and not intrude any temper into it, for I do not.

Neither have I any criticism to make upon your account, either as to its amount or the manner in which it is presented. I will state the matter as I understand it. In the first place, I hold in my hand the last bill which you rendered, wherein you charge \$9,200 for services as counsel in the cases known as the star-route cases, in full to date of November 19, 1883. As to that you complain, and say:

"I have rendered a bill which *as a whole* you have certified. Had you certified it, as you did that of a year previously, as payable from the present current year's appropriation, I have reason to believe it would *all* have been paid before this. You chose to change your form of certificate. I thought I had cause to complain of this, but did not. As a result the Comptroller required the account to be split up."

This was the act of the Comptroller, and not my act. I had been advised by him

in so many words that he would require the bill so to be presented, and had not he so ruled the thought never would have entered my mind, for it must be plain to you that it is a matter of no importance whatever to me out of what fund you are paid, provided you are paid according to law; and if you can persuade the Comptroller to review or retract the decision, I am sure it would give me entire satisfaction.

You then say: "I have since been required to make statement after statement. I have done it, and even then my account remains unpassed." Permit me to turn to your own correspondence with me. In your letter to me dated the 7th of January, 1884, which I hold in my hand, you speak of the time consumed in "New York or in Washington." You do that upon three pages, the 4th, 5th, and 6th.

All I desire is this: If you allege that you did any portion of the work in New York, I merely ask you to say if any part of that work related to the civil suit, the only civil suit which you have in your hands, which I sent to you at your own request; sent to you because I thought from what you have stated it would benefit the Government to have you pursue it in the manner you proposed to do. My only purpose is to separate the charges. If any part of it applied to the civil suit, say so, and then I will be able to discriminate between the star-route cases, as they are called, and the civil proceedings.

That is all I want, Mr. Bliss, and no more, and if in asking for this I have given you any offense, I never intended to do so. If you decline to answer this request, very well; I shall approve your account anyhow. I have not interposed this objection because of any desire to interfere with you, or to create unpleasant or unhappy feelings with you. On the contrary, my whole effort has been from the beginning to maintain pleasant relations with you. At my time of life I do not wish to encourage any such sentiments as hostility or unkindness towards any one, and it would be an impolitic and an unprofessional thing for me in the slightest way to permit such feelings to be excited towards you, related to me, as you have been for so long a time, in a confidential position. Therefore, I must again repeat, I have never intended to say or do anything that would be unpleasant to you, and if I have I was not conscious of it.

In your letter that I have just received, dated January 18, you see fit, starting out, to quote a passage from one of my letters, dated November 9, 1881, and written to you before I became Attorney-General. You likewise quote from a subsequent letter. Why, in this, an official and public matter, you allude to a correspondence that was of a private and confidential character, I do not understand. We are now acting with each other in a wholly different attitude. Then we were both employed by the Government and were acting together. Now I am the representative of the Government, and you are acting under me. I am responsible to the Government now, and to the people for what I do; then I was responsible to nobody. I do not object to your quoting the letter, but I do submit that, under the circumstances, such things are not usual among gentlemen.

I have all these letters, and I hope you will collect them together, and present every one of them to the committee now investigating the affairs of this Department, and present them, so that the public may see exactly where we stood towards each other from the beginning. If you do not I certainly will. I could not have adverted to them if you had not, but as you have invoked them, I will now feel it my duty hereafter to produce them.

In the first place let me say that you cited the letters for an unnecessary purpose, if you intend to cite them to show that I have approved of your charges, or that I intended in the beginning to make similar charges myself. I have written to you recently a letter, dated January 10, 1884. I have it in my hand now. I stated to you in that letter what I now state, to wit, that when I was retained in these cases I consulted with you about the rate of charge, knowing, as you then said to me, "that such things ought to be understood in the beginning, and that you had been employed enough by the Government not to take any business without a specific contract; that otherwise you would be exposed to maltreatment;" and in view of that, and in conformity with the established rule of my life to have no trouble in professional matters with anybody about money, I counseled with you so as to avoid such trouble, and I then considered the charge you said you intended to make, and which you said you had an agreement for with Mr. James and Mr. MacVeagh when you were first retained, was a proper charge; and remembering that I was your senior and the leader in the case, I could certainly charge no less than you did, and it was agreed upon between us that such would be our charge.

I never have from that hour thought the charge was an improper one; I have always written to you and stated I believed the charge was not inordinate. In my letter of January 10, 1884, I say expressly to you I thought the sum was a proper one at that time and under the circumstances, and I say, also, that I think so still.

I said in my letter of January 10, 1884, what I here repeat, that—

"I have thought at different times while the case was pending that it was prolonged beyond the expectation of every one; that perhaps the sum ought to have been abated

after the knowledge of the large aggregate amount. But you were so positive as to your right to demand the amount, that this autumn a year you wrote a letter, that is now on file in the Department, and which you will remember the minute I tell you of it, threatening to leave the case unless the money was paid. What could I do at that time but pay your bill, even though it was criticised by the First Comptroller; pay it because you claimed it as the result of a bargain made before I came into the case; pay it because I thought you had earned it?"

I also said:

"I have no objection to say anywhere that I think the fee was a proper one, and never had any objection to; but I have thought, I say again, that considering the criticisms we were all exposed to, I for allowing it, and you for receiving it, as a member of the party, that perhaps it would have been well to have abated the amount; and I said and wrote to Mr. Merrick and Mr. Ker, and to you, that this employment ought not to be considered an occasion wholly for gain, as it was a great honor."

Inasmuch as you have turned to my letters before I became Attorney-General, I will, in reply, give you a passage from a letter written by you to me, dated December 30, 1881, in which you say:

"I inclose a bill—you see I have charged for fifty-three days absent from my office. This is besides immense time spent at my office and house. It is not a cent too much, and yet I recognize that if this thing is to continue *the aggregate will be more than any one can stand*. But I have a plan for future reductions."

That is all I intended to say, and did say, in my letter of the 10th; it is all I thought. I thought exactly what you said on December 30, 1881, "that you had a plan for future reductions;" when the case continued and the aggregate became so much and would probably apply that plan. This, your idea, you expressed in subsequent letters—in the very letters you referred to, of which you speak when you remind me you had proposed to withdraw from the cases. You have never furnished such a plan. Surely if, in the beginning of the case, you could recognize the fact that if the thing was to continue the aggregate would be "more than any one can stand;" if you could make such a suggestion (and subsequently long after renew the suggestion), then, by way of anticipation, was it not proper for me to think that at some time you would propose to act upon some such plan as would avoid the necessity for an aggregate amount so large as that which you state "no one can stand." I will conclude this by saying it is true you did propose to leave the case, but there never was a time when I could afford to allow you to leave the case, or when you could leave on a question of mere pay as a point of professional and personal honor, and no one knew that better than you did, and you continued to act willingly, notwithstanding your proposals to leave. I suspended your proposal when I answered your letter. If, subsequent to this letter of December 30, 1881, and since during the trial of these cases, you considered you were entitled to your \$100 per day, I have no complaint to make, because it was based upon an understanding that I myself recognized as a fit one in the beginning, when no one supposed the cases would consume so much time; and because, furthermore, I do believe that you have given your time to these cases to the prejudice of your business—not only to the destruction of that which you had, but to the loss of that which you might have acquired—and I recognize the fitness of your charges upon those two grounds and never have disputed them.

I wish you would not put any unhappy feeling into your letters. I want none with you except the most cordial feeling. I do not want to delay you a day. It does not benefit me in the slightest. I would not harm or hurt your feelings or deprive you of your rights.

If my request seems ungracious to you, and you hesitate to answer the simple question that I propound, to wit, as to whether any of this time was charged as against the civil suit, and you think you have sufficiently answered it, say so, and I must assume, as I will, that your oath to the bill confines it strictly and exclusively to services rendered in the prosecutions of the star-route cases, and as having no connection whatever with the civil suit, and I will allow your bill upon your sworn statement, which must be respected.

* * * * *

Very respectfully, yours,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
Special Assistant United States Attorney, &c.,
160 Broadway, New York City.

TREASURY DEPARTMENT,
FIRST COMPTROLLER'S OFFICE,
Washington, D. C., January 19, 1884.

SIR: In compliance with your request of this date I herewith return the last account of George Bliss for services rendered in the star-route cases.

Very respectfully,

WILLIAM LAWRENCE,
Comptroller,
By J. TARBELL,
Deputy Comptroller.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General, Department of Justice.

OFFICE OF BLISS & SCHLEY,
160 Broadway, New York, January 22, 1884.

SIR: In reply to your favor of 19th, this day received, I have to say that in fact during the period referred to in the bill of \$9,200, now before you for apportionment, I devoted some considerable time to the civil suits against the star-route contractors; but you did not in form transmit the papers in the Dorsey cases till after the time referred to in the bill had expired. I devoted this time because I assumed that under my original retainer by Postmaster-General James and your subsequent approval of it I should have *something* to do with the civil suits, though you had in effect subsequently withdrawn or suspended my relations to those cases and not renewed it till after the close of the period covered by the bill.

Under these circumstances I did not feel that I had any official right to charge for that time devoted to the civil suits, and though the bill was intended to be in full of all matters to its date it was not increased in amount by reason of the civil suits. Yet I think I gave to these suits time which if I had been properly retained I should have been entitled to charge several hundred dollars for. In short, I regarded that time like a good deal else in these cases as *given* to the Government.

After the Dorsey case closed I went into a most careful and exhaustive examination of all the remaining cases, going over all the facts and evidence. This extended over many weeks, and was, of course, chiefly of the criminal cases, but also embraced, as I have said, the civil claims to some extent.

Your obedient servant,

GEORGE BLISS,
Special Assistant Attorney.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

NEW YORK, January 22, 1884.

DEAR SIR: Yours of the 19th came to hand only this morning. I have replied in another letter to the specific questions you put to me with reference to the items of my account. I place in this distinct form some reply to other matters in your letter.

1. It is not important, but in fact my letter of the 18th addressed to you personally was posted by me in Washington on Friday last, not in New York, as you say. I wrote it and retained till just before I left. First, because I did not wish to act under irritation; and, second, because I wished to wait till the last moment to see if you took any action on my bill. As it was before you, and as *I had no intimation that anything else was wanted from me*, I did not choose to speak with you of it. If you had wanted the further statement you now ask I should have been so informed. Mr. Cameron said you were going to write for something of this kind, but you *never have done so till this letter was received*. What Mr. Cameron said you would ask for was something quite different from what you now ask. The one I can and do give; the other I could not give.

2. As to the form of certificate to the account: Before you certified it I saw you formally, told you I believed you were misinformed as to any decision of the Comptroller's having been then made, and asked you to certify the bill precisely as you did that of the previous year under similar circumstances, that I might be in a condition to raise a case before him "in all forms" with the one formerly decided. If I mistake not in my letter transmitting the account I made the same request. In my personal interview you acceded to it. The bill went without such a certificate, and the Comptroller having a different case was unable to make a different decision without absolute inconsistency. Then came the necessity of splitting up.

3. I have previously given you as well as I could the proportions of time in Wash-

ington and New York. As to how much time was spent in the civil suits, I have now the request for the first time, as already stated. If that was all that delayed my bill the request could have been easily made long since and easily complied with.

4. You object to my reference to your letter written before you became Attorney-General and accuse me of doing what is "not usual among gentlemen." A hard charge and unjust, particularly when read in connection with the clause which follows it. I can see no justification of the charge unless I am to understand that you take the extreme ground that no one, friend or not, has a right to write you a *personal* letter, as mine was expressly marked, about a matter before you officially, and if he does he pursues a course "not usual among gentlemen." I have not supposed that was your position, nor have I supposed everything received from you since you became Attorney-General was to be treated as official. Surely there was nothing "not usual among gentlemen" in using your own words, written to me when you were in the same relative position that I am now, to show you that in the feelings I expressed I was not singular, but had a good prototype.

5. As to the amounts of your bill and mine, I have not intimated that yours was too large, though I have perhaps said it was as large relatively as any that had been rendered in the case. Your quotation from mine of December 30, 1881, is correct. I felt then what I wrote, and felt the same when I repeatedly asked to be allowed to retire from the case, and when I expressly notified you that if I remained I could not afford to work for less, and would not. As for a plan for reduction, I did suggest it. It was, in brief, that Mr. Ker be retired except for drawing indictments and defending them when attacked; that I remain, if you thought I must remain, somewhat formally, and as consulting counsel, so as not to require such long and constant absences from home, and that, if necessary, some Washington attorney be employed to do "grub work" for Mr. Merrick.

6. Your intimation that I was not sincere in my desire to retire is unfair and not justified by the facts. The correspondence and the facts will show that until my wife's health ceased to be critical I insisted upon retiring as a right. When her health improved I had no right to retire without your consent. I thought and still think that after the first trial I could have retired without serious injury to the cases, though there would have been some temporary inconvenience to those engaged in them.

You appeal to me not to put any "unhappy feeling" into my letters, not to "intrude temper," &c. You surely do not want me to conceal my feelings, and whatever might have been your opinion as to my right to be irritated before you cannot be surprised that when you accuse me of doing what is "not usual among gentlemen," and when you insinuate that in my desire to retire I was "playing a bluff game," under such circumstances you cannot be surprised that I have and that I express some feeling. Indeed, if you reflected on the charge made of ungentlemanly conduct you must have anticipated if not intended to arouse some feeling.

Your obedient servant,

GEORGE BLISS.

Hon. BENJAMIN HARRIS BREWSTER.

POST-OFFICE DEPARTMENT,
Washington, D. C., February 1, 1884.

SIR: In obedience to your instructions that I call upon Mr. Woodward, post-office inspector, and ascertain from him the amount of time necessary to make "a most careful and exhaustive examination of all the remaining cases, going over all the facts and evidence," that is the star-route cases remaining "after the Dorsey cases closed," I have the honor to report that I called upon Mr. Woodward in his office, room 24, Post-Office Department (where I am, with his aid, preparing this memorandum), and handed him the letter of Col. George Bliss, dated January 22, 1884, in which he says that his examination into pending cases above referred to "extended over many weeks" during the present fiscal year, and for which services he charges the sum of \$4,500.

The facts are these: The indictments against A. E. Boone were quashed, involving almost necessarily the permanent suspension of proceedings against his codefendants, charged with the preparation of worthless and fraudulent bonds, through which the Government had really lost nothing up to the time of their indictment.

The papers containing "all the facts and evidence" against Brott and Lilley are now in Mr. Woodward's safe, in this room, where they have been since the 1st day of July, 1884. Admitting that Mr. Bliss has seen these papers during the present fiscal year, which is improbable, in view of the position in which they were left and found, I say, granting that Mr. Bliss, who was familiar with the cases, made "a most careful and exhaustive examination" of this case, it could not have occupied him longer

than fifteen minutes or a half hour. For Mr. Woodward is of the opinion, in which I concur, that a lawyer unfamiliar with "all the facts and evidence" could thoroughly master the case in an hour.

Meserole and Brady were indicted on the route from Monument to River Bend, Colo. The facts in the case were few and simple. The case is comparatively a weak one, and there could have been no conceivable reason for reviewing it at this time; but if such review were necessary I am informed by the gentleman who collated "all the facts and evidence" that any person familiar with the case, as Mr. Bliss must be and is, could refresh his memory on all the essential points in twenty minutes or half an hour.

These are all the cases Mr. Woodward can recall, except that against Kellogg, and another against Brady, growing out of the Price routes—the same transaction. Mr. Woodward has had personal custody of the documentary and other written evidence in these last-mentioned cases, and Mr. Bliss has not reviewed this evidence, so far as he knows, during the present fiscal year, nor in fact at any time since the conference at your house between counsel, or about that time—the time when Price was accepted as a witness, over a year ago. In fact there is nothing to review; the case is a very simple one.

In view of the above statement of facts it is very difficult to see clearly what this claim means or where the alleged services could have been expended.

Very respectfully, your obedient servant,

BREWSTER CAMERON,
General Agent, Department of Justice.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, December 29, 1883.

SIR: Your account for \$9,200 for compensation as counsel for the United States from April 6 to November 19, 1883, is before me. That account has been approved by the Attorney-General. But inasmuch as it covers parts of two fiscal years, the First Comptroller, upon its going to him, has required that it be apportioned accordingly. Being notified of this requirement, you have thereupon accordingly placed \$4,500 of the charge in the fiscal year ending June 30, 1883, and the remainder \$4,700 in the present fiscal year. I transmitted that apportionment to the Comptroller and he has returned it requiring my approval thereof.

I do not readily find in this Department the terms of your compensation on behalf of the United States. Outside of express terms the arrangement depends, according to the custom of this office, very much upon the personal discretion of the Attorney-General. I will do nothing to embarrass the exercise of that discretion by casual action during his brief absence—the more that he has acted thereon frequently during the past two years in making payments to you.

It was suggested to Mr. Falls, who has represented you here, that perhaps you might make a further statement of details as would give me information, but he tells me to-day that this cannot be done.

Upon the whole, then, I will allow to-day without prejudice \$2,500 of your account, which I believe practically leaves the whole matter to the Attorney-General at his return, upon the same footing as if he were now here; and I hope will be of no concern otherwise, as it involves a delay to you of probably only a week.

Very respectfully,

S. F. PHILLIPS,
Acting Attorney-General.

GEORGE BLISS, Esq.

FEBRUARY 8, 1884.

SIR: In your letter of January 10, with reference to my account for services pending before you, you ask for some information, and add, "If you decline to answer this request, very well; I shall approve your account anyhow." Further along you say that if I do not answer your question you will assume the account relates to the star route-cases, "and I will allow your bill upon your sworn statement, which must be respected."

I replied to your letter and question on ———, giving such information as I could. Since then I have heard nothing of my account, except that I learn from my attorney that no action has been taken.

It is going on three months since that account was forwarded. Its amount was formally approved by you many weeks since. Owing to the action of the Comptroller it has been returned to you for apportionment, and has been in your hands about ——— for that purpose. I have been called upon for information at intervals and

have always replied promptly. You assure me in your letter that there is no desire for delay. In view of these facts I submit that I am entitled to ask for action upon my account, so that such portion of it as is chargeable to a fund for which there is an existing appropriation may be paid.

Your obedient servant,

GEORGE BLISS,
Special Assistant Attorney.

Hon. B. H. BREWSTER,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, February 11, 1884.

SIR: I have your letter dated 8th instant, in which you inquire as to the delay in the apportionment of your account for \$9,200. You refer to my letter of the 19th ultimo, asking you for further information about the matter, in which I said:

"If you decline to answer this request, very well; I shall approve your account anyhow."

You also quote me correctly in saying that I wrote you in the same letter as follows:

"I must assume, as I will, that your oath to the bill confines itself strictly and exclusively to the services rendered in the prosecution of the star-route cases as having no connection whatever with the civil suit, and I will allow your bill upon your sworn statement, which must be respected."

In your reply to my letter of the 19th ultimo, dated 22d of January, you say:

"After the Dorsey case closed, I went into a most careful and exhaustive examination of all the remaining cases, going over all the facts and evidence. This extended over many weeks."

Your charge, therefore, appears to be for specific services which I did not know you had performed, and which I had determined not to authorize till I had considered the advisability of at present pursuing any of the pending cases.

I have caused a careful inquiry to be made as to the time necessary to make a careful and exhaustive examination of all the facts and evidence in these cases, and am informed that the cases are unimportant ones; that the facts are few and plain, and that the evidence is not conclusive, as to most of the cases at least.

Your letter of the 22d of January changes the case to such an extent that my letter of the 19th ultimo is no longer applicable; and I do not feel warranted in approving this bill until I have had time to examine personally and with care into the pending cases, for the inspection of which you charge in the bill now before me.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
Special Assistant Attorney, New York City, N. Y.

DEPARTMENT OF JUSTICE,
Washington, February 13, 1884.

SIR: Your letter of the 8th instant, with reference to the Kellogg case, has been received. This case must be tried if it can be. It is the duty of the Government to try it, both on account of the public interest and also because Mr. Kellogg ought not to be delayed unless there is an absolute necessity for delay.

It is a discredit to the Government that a man so conspicuous and well known as this Mr. Walsh cannot be served with a subpoena. It seems that wherever the Government's interests are concerned, and a person is disposed to retire, he cannot be had. This was notoriously so in Spencer's case, and has been conspicuously so in this case of Mr. Walsh. It is my wish that every effort should be made to procure him. If the man cannot be procured, when the day comes for the hearing of the case, within a reasonable time before it, the fact will be known to you and to the Department, and Mr. Kellogg can then be advised through his counsel that I will not call the case.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
Special Assistant Attorney, &c., 160 Broadway, New York City.

BLISS & SCHLEY, NEW YORK,
February 14, 1884.

SIR: I have your favor of February 11 with reference to my account rendered, in which you say, basing your change of ground on my statement that after the close of the trial of the Dorsey case I went into an examination of the other cases, that this was service you did not authorize and in substance express the opinion that "the facts are few and plain," "the evidence not conclusive," the examination could have taken little time, and therefore you decline to approve my bill.

I assume this means that you withdraw the approval theretofore given of the entire bill, and decline to apportion any of it to the current appropriation, and that my oath, which on the 19th ultimo you thought conclusive, is no longer good for anything.

Now, in the first place, I claim that I had authority as special assistant attorney, and under the discretion you gave me from time to time as well as under the terms of my original employment, to do what I did. I claim that I earned under the terms the sum charged in the bill. As to the distribution of the amount between the different appropriations, I have not spoken with the same confidence because it is in the nature of the case almost impossible to decide it with entire accuracy, for reasons I have pointed. I have seen for considerable time to what the matter was tending, with its repeated calls for this and for that information, to wit, a delay until the current appropriation should be exhausted. This is the inevitable result, whether intended or not. Against that I protest. I am entitled to be paid for services rendered. I believe I am entitled to be paid now some sum from the current appropriation. For the first time now you raise a question as to the accuracy of my entire bill or of the balance not payable from the present appropriation, but belonging rightfully to what is to be paid under a deficiency bill, if there is one.

Now, I propose to go carefully over all my correspondence and books, not only the correspondence with reference to the Government cases, but as to all other matters, and see how far I can account for what I did every day covered by the period embraced in the account, and thus, if possible, by exclusion (showing that on a given day I did nothing for the Government because engaged in other matters) and by inclusion (showing that on a given day I gave my whole time or a portion of my time to the Government), arrive at a more definite conclusion. This will take much time and must be done in the intervals of business unless I arrange to give up a day or two to it. I will then arrive at a result which I shall be in a great measure prepared to *prove*. I shall do this for my own satisfaction, not yours—because things have arrived at the condition where in your estimation my statements, even under oath, are not to be relied upon. I do not therefore expect that you will delay that investigation you are so earnestly desirous of making nor that you will withhold the decision you arrive at.

By the same mail by which yours of the 11th is received comes yours of the 13th with reference to Walsh, with a hardly concealed reflection for the failure to find him. I have done my best so to do and failed. Under the circumstances permit me to suggest that it is your duty to set some one else at work on that business, who, if he has not more of success will have more of your confidence. This is proper for the double reason, that I have failed, and that as I have already informed you the clue, if any is to be found, must in my opinion be taken up at Washington. Independently of this, it will occur to you that it is not the duty of counsel to enter into a detective search for witness. I have been willing to do this and am still so willing, but do not feel called upon to go outside of my legitimate duties in a matter where I am so plainly told that my failure is my fault. In this as in all other matters in these cases, I have done my full duty, and so long as I remain in the cases I shall continue to do so. At some time, you will become convinced of the injustice you do me.

Your obedient servant,

GEORGE BLISS,
Special Assistant Attorney.

HON. BENJAMIN H. BREWSTER,
Attorney-General.

I may add that, as far as I know or can foresee, Walsh will not be available as a witness at the March term unless something is done in and from Washington. I have one possible clue still remaining, which I thought a week ago would lead to something, but the lapse of time has caused me almost entirely to lose confidence in it. Unless, therefore, you receive contrary information from me you can consider it settled that in my opinion Walsh's attendance cannot be procured. You may have better success than I in finding him.

NEW YORK, February 18, 1884.

SIR: I have spent the greater part of two days in going over all my letter-books letters received, bills, registers, &c., and am now prepared to make a statement as to the services rendered the Government during the period from April 7 to November 19,

1883, inclusive, more accurate than I have previously been able to make, so far as it relates to the precise days on which services were rendered. It is still not entirely *precise* as to the *days* after July 1, but it is accurate as showing that certain services were rendered after July 1, and that others were rendered before that date. As to the days before that date, it is absolutely accurate in day and date.

Between April 7 and July 1 I was in court in Washington, or was in Washington remaining there during the adjournment of court, and remaining solely on business of the Government, fifty-seven days. I was five days in going to or from Washington, when by going home I saved charging a day to the Government, and did not charge it. I mean I did not charge the day so saved, though I charged for the days devoted to travel. I was two days in Washington after the verdict was rendered in the case of the United States *v. Brady et al.*, arranging as to closing up matters, the deposition of Rerdell, &c., and devoting the time entirely to the Government. This makes sixty-four days away from home prior to July 1. In addition to that I was three days in New York exclusively devoted to the Government, at my home preparing my closing address, and "putting in" sixteen or eighteen hours a day of hard work. Besides that, between June 20 and 28 I devoted, in New York, the equivalent of a full day's work to preparation in the Kellogg case, set down for June 30. There were three or four letters to you—correspondence with Ker and Merrick. This was before I returned to Washington on your express order in writing. I should therefore be entitled to charge, at the agreed rate for compensation, \$6,400 for services in Washington, and not less than \$350 for services in New York. This is in addition to expenses during that period, for my agreement was \$100 a day and expenses. This is in accordance with your own letter as special counsel, to Attorney-General MacVeagh, of 1881. That letter made no distinction between services at home or in Washington. My own understanding was that *ordinary* services were to be charged less in New York than in Washington, because in such cases there was a possibility of attending to other business.

While on this subject of expenses let me remind you that in my account of March 16, 1883, you certified that I was entitled to \$782.21 of expenses for which I presented you full vouchers; that they were disallowed by the accounting officers, not on the ground that I was not entitled to them, but that you had no right to allow expenses, *quo* expenses, but could allow an aggregate or per diem *compensation* embracing such sums as you were satisfied by vouchers were proper *expenses*, you retaining the vouchers. Since that decision I have never put in an item for expenses. I have never received that suspended sum of \$782.21, and I have never been allowed anything for expenses in items for compensation, save as it might be considered as included in the account of \$9,200 now before you, which is an account in full to November 19. Beyond the \$782.21, my actual disbursements caused by my being in the Government employ were, up to November 19, over \$600, as I am prepared to satisfy you by vouchers.

You will perceive therefore that if I was claiming the letter of my contract I should be entitled prior to July 1, 1883, to not less than \$8,132 as balance, assuming that I had been paid for expenses in full up to January 6, 1883, as I have, and for services in full up to the date of my last previous bill that was paid April 5, which by the way was not "in full."

You will therefore see that the idea you have obviously entertained that I was overcharging was incorrect.

As to the period after July 1, and before November 19, I cannot be so precise.

I was in Washington at your request in the Kellogg matter on November 16, and for two days prior thereto. I was in Washington previously for two days on Government business about October 20. Your letter of October 31 refers to the fact. I cannot say that I rendered any other services away from home during the period July 1 to November 18, except on these occasions. They would entitle me to \$500 independently of expenses, \$28. Out of Washington there were constantly matters coming up. Your own letters of June 30, July 2, July 25, August 22, September 20, October 31, among others, show this, and indicate that the Spencer matter, the civil suits, and the attempt to find Walsh were all occupying some portion of my time, as was the fact. During the same period I had some trouble in attempting to adjust matters left over, such as various small bills, in supervising the proper arrangement for binding of the reports of the trial and matters more numerous and annoying than you can now appreciate.

Early in November Mr. Merrick, by your direction visited New York in the attempt to get an interview with Walsh, and at that time set me in motion preparing for the Kellogg case. I not only set to work and supervised the detective work, most of which, however, came after November 19, but I attended to the summoning of witnesses, and made a thorough and careful preparation for the trial, including brief on the question of the statute of limitations, and other questions which seemed likely to come up in that case, either newly or in a different form from any in which we had had to do with them previously. As a separate matter \$1,000 would have been cheap for this. Considering that it was not only my right but my duty to see what should

be done, if anything, with the other pending cases, I took them up in detail. It never occurred to me that I was not still responsible as to those. In the same connection I examined to some extent the question of the civil suits, but finding that there were varying and inconsistent instructions as to these I wrote to you as to them and got your reply of July 25—I think it was—which put my mind at rest as to these.

As to the other suits, I went carefully over them to see if there were any which we could try and ought to try. This involved an examination of the original bond suits brought on the report of (now) Marshal Tidball. This required an examination at the Post-Office Department of the question whether since the indictments were found there had been *actual* money loss to the Government under the bonds of these parties, as Boone had become a failing contractor, and consideration how far those cases were embarrassed by the entry of a *nolle prosequi* in Boone's cases, some of the parties having been his bondsmen. It involved an examination of a quantity of evidence taken in the police court in these cases. I also examined in the same view the later bond cases in which the witnesses came from Mobile and its vicinity. One or more of these I thought, should be tried, and still think so. I consulted Mr. Merrick, who promised to examine. Later, for reasons not connected with the merits, he thought it not wise to try them, and you have more recently directed that they be not tried.

Besides these I examined all the other star-route indictments. Besides cases against Brady, there were indicted various others, one on the Mound City route whose name now escapes me, twice indicted. There were also ex-Deputy Auditor Lilly and others. In all, my recollection is that I went over forty-eight indictments and all the papers relating to those cases. You suggest that some one has told you the cases are weak. They may be, but I don't believe your informant or any one has any real knowledge on the subject. Outside of Mr. Merrick, I don't think any one knows about them, and he will not pretend to a tittle of my knowledge as to them. But if they were weak, I deemed it my business in the position I was placed to find out, and I did. I had known all about the cases originally, but much had intervened; I had learned and experienced much as well as forgotten something.

I know better the difficulties in the way of success than when the indictments were found. I had learned to know of possible flaws which had not originally occurred to me, and I determined to revise my judgment and be in a position to act understandingly. It is a little frigid now to be told my work was unauthorized. It is worse than that to be told in effect that it took no time and labor, and is not to be paid for. I spent days and days of what should have been my vacation in hard, engrossing work in those matters, even taking the papers along when accompanying my sick wife, till she remonstrated. I say, unhesitatingly, that I earned and deserve \$2,000 in this work at a moderate calculation, and to any officer who means to do his duty by the Government and the accused what I did would be worth that now.

I cannot give day and date for these services. Sometimes it was a whole day, usually a rainy one or something of that kind, sometimes half a day. From July 14 to September 6 I think there was no week day when I did not do something in these cases.

Besides this I made again an examination of the cases against Salisbury and others, in which I had sought to get indictments, and failed, in order to see whether in the light of the experience I had gained I was justified in incurring the expense necessary to attempt to again secure indictments. I also went over anew with the same general intent all the cases which had previously been regarded as suspicious, to see if I could now find any ground for criminal proceedings.

I say unhesitatingly that if the Department of Justice is to be protected from just criticism in these matters, it will be in consequence of this work which I did last summer, and which is now repudiated and declared to be unauthorized.

This work, too, took many, many hours, and deserves payment and recognition. I would not, as a new matter, do it for \$2,000.

I can say no more. My bill is before you. If you really preside over a department of justice, you will carry out the agreement of your predecessor, sanctioned by yourself and repeatedly declared by you to be reasonable and proper.

If anything contained in this letter should be inconsistent with anything I have formerly written as to the distribution of the services, which it does not occur to me is the case, I have only to say that what I have now said is based upon a careful examination, while my former letters were chiefly based on memory, and that I desire the present statement therefore to be deemed correct.

Had I made the examination before rendering my bill, I should have charged a larger sum, but the increase would have been chiefly as to the services before July 1. I think in the division I subsequently sought to make, taking the bill as it was, I was not far out of the way.

Your obedient servant,

GEORGE BLISS,
Special Assistant Attorney.

Hon. BENJAMIN H. BREWSTER,
Attorney-General.

FEBRUARY 19, 1884.

SIR: I inclose an account for services from November 19 to date. While entitled to charges for expenses, I have not done so, as I desired to escape complication between the Department of Justice and the Auditor's office.

I have the honor to ask that this account may be acted upon promptly and before the current appropriation shall be exhausted.

Your obedient servant,

GEORGE BLISS.

Hon. BENJAMIN H. BREWSTER,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, February 20, 1884.

SIR: The Attorney-General directs me to say to you that he has received your letter of the 18th instant, and that he will give it all due attention.

Very respectfully,

CECIL CLAY,
Chief Clerk.

GEORGE BLISS, Esq.,

DEPARTMENT OF JUSTICE,
Washington February 28, 1884.

SIR: I have received a resolution from the Senate, inquiring when, and by whom, compensation for special attorneys in the star-route cases, in the District of Columbia, was fixed, and to furnish copies of any agreements or memoranda relating thereto, and the facts relating to the reasonableness of such compensation, and my reasons for paying the same; also, whether such attorneys, or any of them, are now in the employ of the Department of Justice, and at what compensation.

I have to request that you will furnish me with copies of any papers or data which you may possess that will enable me to make a prompt and full answer to this resolution.

I have written a similar letter to Mr. Bliss and to Mr. Merrick.

Your early attention will oblige,

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

W. W. KER, Esq.,
Special Counsel, Philadelphia, Pa.

PHILADELPHIA, *March 3, 1884.*

SIR: In answer to your letter dated February 28, 1884, relating to a resolution of the Senate inquiring when and by whom compensation for special attorneys in the star-route cases of the District of Columbia was fixed, and to furnish copies of any agreements or memoranda relating thereto, and the facts relating to the reasonableness of the compensation, and your reasons for paying the same, I have the honor to state:

On the 21st day of January, 1882, I received from you a commission, as follows:

DEPARTMENT OF JUSTICE,
Washington, January 21, 1882.

SIR: You are hereby appointed special assistant United States attorney for the District of Columbia, to aid in the prosecution of certain persons charged with being concerned in frauds on the United States in connection with what is known as the "star-route" investigation, at a compensation to be determined by the Attorney-General when the suits are ended.

You will take the oath prescribed for district attorneys, and transmit the same to this Department.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

WILLIAM W. KER, Esq.,
Washington, D. C.

I immediately took the oath of office, and the commission and oath of office are filed in your Department. There never was any other agreement for compensation than that mentioned in the commission, which is "at a compensation to be determined by the Attorney-General when the suits are ended."

I remained in the service of the Government for nearly two years; that is, I left Washington in the middle of December, 1818. During the trials I presented bills for professional services which were on account. Some of those bills were allowed by you, and some were reduced, as will appear by the records in your Department.

Very respectfully, your obedient servant,

WILLIAM W. KER.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General, United States.

NEW YORK, *March 12, 1884.*

SIR: I do not think there can be any question in your mind that in common fairness I am entitled to action by you on my two bills now before you. Since April 5, 1883—now nearly a year—I have received for all my services only \$2,500. This covers about two and a half months of services in the Dorsey case, my attendance in the Spencer and Kellogg cases, and my other services.

I am well aware that for a portion of these services there is under the Comptroller's ruling no appropriation. But for services from July 1, 1883, to November 17, 1884, covered by my bill of \$9,200 there is—or was, and I presume is—an appropriation, and I have had only \$2,500 for such services. I cannot imagine that any calculation can make out that that sum is in full for services between these dates. My letter of February 18 contains all I can say as to these services.

My other bill was forwarded February 19. I have received nothing for the services therein charged for, and there is little room for disagreement as to what I am entitled to.

Your obedient servant,

GEORGE BLISS,
Special Assistant Attorney.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, March 14, 1884.

SIR: In your letter of the 18th ultimo you use the following language: "Besides these I examined all the other star-route indictments. Besides cases against Brady, there were indicted various others, one on the Mound City route, whose name now escapes me, twice indicted. There were also ex-Deputy Auditor Lilly and others. In all, my recollection is that I went over forty-eight indictments and all the papers relating to those cases."

Again you say:

"I spent days and nights of what should have been my vacation in hard, engrossing work in those matters, even taking the papers along when accompanying my sick wife, till she remonstrated. I say unhesitatingly that I earned and deserve \$2,000 in this work at a moderate calculation, and to any officer who means to do his duty by the Government and the accused what I did would be worth that now.

"I cannot give day and date for these services. Sometimes it was a whole day, usually a rainy one, or something of that kind, sometimes half a day. From July 14 to September 6 I think there was no week day I did not do something in these cases.

"Besides this I made again an examination of the cases against Salisbury and others. * * * I also went over a new with the same general intent all the cases which had previously been regarded as suspicious to see if I could not find any ground for criminal proceedings."

The above extracts from your letter of the 18th ultimo are made for the purpose of directing your attention to the character of the answer desired to the inquiry of what cases by name you personally examined and what papers you then had or still have in your possession bearing upon each case, the character of those papers, whether copies of indictments or copies of testimony connected therewith, and the volume thereof; that is, the number of pages connected with each case.

You will permit me to ask that I be furnished with an accurate statement of the particulars above mentioned, as I deem such an answer necessary to a full understanding of the services performed by you, that a just estimate of their value may be reached, because of the following paragraph of your letter:

"If anything contained in this letter should be inconsistent with anything I have

formerly written as to the distribution of the services—which it does not occur to me is the case—I have only to say that what I have now said is based upon a careful examination, while my former letters were chiefly based on memory, and that I desire the present statement, therefore, to be deemed correct.”

And because of the expression used in the second quotation herein made, that you “earned and deserved \$2,000 in this work.” You have already received by the apportionment of Mr. Phillips, Acting Attorney-General, the sum of \$2,500 from the appropriation for the current year.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
Special Assistant United States Attorney, New York City, N. Y.

NEW YORK, March 17, 1884.

SIR: In spite of the insult implied in your inquiry in your letter of 14th just received, as to what papers I had in my possession bearing upon the cases I examined after July 1, 1883, and before November 17, 1883, I beg to say that I had in my possession memoranda as to the subject of each indictment which had been procured after I took hold of the star-route prosecutions; such memoranda showed the persons indicted, the offense alleged, the time and place. I had, moreover, various memoranda as to the evidence in which they were found and by which they could be sustained. Some of these memoranda were found in published reports, some in the reports of inspectors who had been over the routes, some in the files of the Post-Office Department. Anticipating this examination, I, from time to time, before I left Washington, made memoranda from the original papers on file. On two occasions when I visited Washington, I, by examinations, filled up gaps in these memoranda or satisfied myself as to points on which I was doubtful. I had no original papers with me away from Washington, I think, and my memoranda were brief pencil notes taken as to points which did not appear in printed reports or which were not covered by my memory. Of printed reports I consulted the star-route investigations before Congress by the committee of which Mr. Blackburn was chairman, another report of an investigation in Congress which covered some of the points, Gibson's report, Tidball and Shallcross's report and the Postmaster-General's reports. The list of cases I had was one published in the Washington Star about the time the trial closed, verified and corrected by myself at the clerk's office. I cannot at this moment put my hand upon it, but I recall the indictments against Boone—of which there were several—against S. G. Cabell, James N. Donahoe, Charles H. Dickson, E. J. Sweet, W. M. Jackson, Kate M. Armstrong, A. O. Buck, W. S. Bonniger, John R. Minnix, J. B. Henderson, F. B. Lilly, George F. Brott. There were also three or four indictments found at a later period against two of Boone's bondsmen from Mobile or its vicinity, which cases I advised you should in my opinion be prosecuted. There were also two or three against a man who was the contractor in the Monument Bend route, George H. Newell. In these, as in four other indictments, Brady was included. There were also other indictments against Brady. I cannot be more specific, but can say that they included every indictment found in the star-route cases, and if a careful statement is necessary, you can obtain it from the clerk's office. The examination was made at Alexandria Bay, where I was spending the summer, and as its result was to convince me that no cases except the Mobile ones should be proceeded with, I did not regard my memoranda as longer of value, though I presume that when I left Alexandria Bay late in September I sent the papers with all other “traps” to my house. I knew that as to the Mobile cases and one or two others, as to which I desire to do something further, I kept them separate from the other papers.

As to the volumes of papers I consulted, “the number of pages connected with each case,” it is impossible for me to answer you. Gibson's report, for instance, is 180 to 200 pages. I went all over it several times, as I took up one case after another, and yet there is in it comparatively little bearing on any particular case, but I was winnowing it out. Tidball's report is perhaps 75 to 80 pages, and I went over that several times in the same way. The Congressional investigations were, I should say, at least 600 to 800 pages. I went through them again and again, my examinations as repeated enabling me in each successive case to turn the more readily to the precise passage I remembered as applicable to it. So far as there were inspectors' reports in the routes, I had abstracts and pencil copies of them. The papers in the files of the particular routes involved I had abstracts of or memoranda about, some made in view of this intended retrospect, some that I had collected in the first history of the cases, for you will remember I was not marshaling any new papers or evidence; I was only in cooler moments and in the light of experience gained, going over the ground to see what indictments, if any, should be brought to trial.

Thus far I have spoken of the cases in which indictments had been found. As to the rest of your questions, I went over the papers in the routes from Vinita to Las Vegas, from San Antonio to Corpus Christi, from Fargo to Pembina, from Helena to Mineola, Silver Bow to New Chicago, Rock Creek to Eitchetah, Prescott to Santa Fé, Wells to Hamilton, Soledad to Newhall, Fort Worth to Yuma, Monroe to Shreveport, Caldwell to Fort Sill, Camp Supply to Fort Elliott, Sidney to Deadwood, Phoenix to Prescott. There were others, but I cannot now recall them. My endeavor was to go over again those in which we had sought to obtain indictments and failed, and those in which, from the large increase of pay or other cause, there had come to be a suspicion that there had been wrong-doing. I gave a preference to routes which had been reported of by inspectors. In these cases, including those reported upon and others, the printed reports already referred to, other than Tidball's, contained information and were consulted, but my abstracts and memoranda were the chief objects of study. My idea was to see whether there were any routes in which I thought a fresh endeavor should be made to procure indictments, and therefore I bestowed the most pains on routes belonging to the Saulsburys, Parkers, Kerns, Cosgrove, or their respective dummies or representatives, for I felt it would be a subject of inquiry why we had proceeded against the Dorseys and their associates and not the others, and while I felt we had done what we could against the others consistent with the necessary attention to the Dorsey cases, I wished to be *sure* that now that there was more leisure and more experience I could be able to give an intelligent reason for action or non-action, and to be ready to defend myself, my associates, and the Department of Justice against criticism, which it was obvious was coming. I think the labor I bestowed will stand *me* in good stead before Mr. Springer's committee, though not apparently recognized as of any value by you. It will show I did more than you think it was my duty to do.

You refer to my statement that I earned and deserve \$2,000 in this work and connect with it the fact that I have been paid \$2,500 from the current appropriation. This is true, but that amount so paid applies in all my services from July 1 to November 19. The same letter shows my estimates of \$500 for attendance in Washington (which is substantially correct) and \$1,000 for preparation, &c., in the Kellogg case. In the same letter I showed you I spent during the period covered by the bill of \$9,200, but before July 1, sixty-four days away from my office or under such circumstances that I was entitled to charge \$6,400 for it, and \$350 for services in New York, in addition to not less than \$382.21 for expenses, making a total *strictly* chargeable before July 1, of \$8,132. Add to this my statement of \$2,000 for the examinations referred to in the earlier part of this letter, \$500 for the visits to Washington, and \$1,000 for the other matter, besides the matter to which I affixed no specific sum, I should have a total of \$11,162, though I have charged only \$9,200. The question before you is on the distribution of this \$9,200 between the two appropriations.

It is a month since my former letter was written. I presume, to judge from experience, a month hence I shall get some further inquiry, and so further ones till the manifest object of the Department is attained.

Your obedient servant,

GEORGE BLISS,
Assistant Attorney.

HON. BENJAMIN HARRIS BREWSTER,
Attorney-General.

P. S.—In reading this over I see that I ought to say that the files of the Post-Office Department in the cases specified not in indictment were examined by me to fill up gaps, explain memoranda, or supply defects of memory on at least one visit to Washington for which I made no charge. They were also so examined once when there on expense, and I *think* on another visit for which I made no charge, all before November 19.

MARCH 18, 1884.

SIR: It occurs to me to add to my letter of yesterday that, in the case of some of the indictments I examined, questions of this sort came up: What was the effect of the *nolle* as to Boone upon those who were his bondsmen or co-conspirators? This I had to examine in a legal point of view and to consider in the view of probable success, some of the indictments being conspiracy, some perjury, and some subornation of perjury. In connection with these was the case of Kate M. Armstrong, as to whom there had been a misnomer and a *nolle* in consequence.

So as to F. B. Lilly, the witness against him, Brott, had been indicted. Mr. Woodward thought such an indictment was a breach of faith toward Brott, and that it had closed his mouth. In fact he had been indicted because the appearances were that he was not keeping faith on his part. These appearances were probably erroneous, but were availed of by Gibson and Cook to induce indictment of him. This left the evidence against Lilly weak without Brott, and put Brott in a position, where, even if

disposed to testify, his evidence would not have the weight it would otherwise have. It was, as I remember, also mixed up with the fact that there was a disagreement between Mr. Woodward and Mr. Brott as to what the latter had told the former on a side issue. On these cases I needed and had very few papers or memoranda. The matters were in my memory and needed only to be recanvassed, so to speak, though I had some memoranda of dates, &c.

I state these facts merely to show you the course of my investigation, or rather consideration, in some of the cases.

Your obedient servant,

GEORGE BLISS,
Special Assistant.

Hon. BENJ. HARRIS BREWSTER,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, March 19, 1884.

SIR: Your letters of the 17th and 18th instant have been received, in reply to inquiries contained in Department letter of the 14th instant.

They will be examined with a view of ascertaining how far they furnish answers to the inquiries, and whether or not further particulars will be found necessary. The object sought to be reached is a proper judgment of the character of services performed, their value to the Government in the cases mentioned, and whether or not there was a need for the same.

If the result reached supports your views and claims, you will be notified at once. If further explanation is deemed necessary, your attention will be directed to the same, as all necessary information may properly be asked of an employé by the head of a Department without incurring the imputation of sinister motives.

Very respectfully,

BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
Special Counsel, New York City.

MARCH 24, 1884.

SIR: Permit me to remind you that my account for services *since* November 19 has been in your hands for some weeks; that it has evoked and hardly can evoke any call for further information, and that therefore I am in justice entitled to action at your hands.

Your obedient servant,

GEORGE BLISS,
Special Assistant Attorney.

Hon. BENJ. HARRIS BREWSTER,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, March 28, 1884.

SIR: We are directed by the Attorney-General to acknowledge for him the receipt of your letters of the 18th and 19th instant, relating to your bills for services in the star-route cases during the latter part of the last fiscal year, and the present fiscal year, and to explain why these bills have not been definitely acted upon until now. When the Attorney-General received your final explanation as to the nature and extent of your services, he directed us to make an examination into the character and extent of the services rendered by you since the 1st of July last, in order that he might act understandingly upon the bill presented by you for those services. We have been a good deal delayed in this investigation by the absence of one of us, Mr. Howe, who was sent to Alabama during the early part of the month. We have been further delayed by the frequent absences of Inspector Woodward from the city. Mr. Woodward is now absent in Connecticut, as we are informed, but will return on Monday. From him we have already received information which we may have occasion to use in making our report. It is our purpose, and we are so directed by the Attorney-General, to conclude our investigation at once upon his return. It will be necessary for us to have more definite and exact information from Mr. Woodward before reporting finally to the Attorney-General, and we have so stated to him.

Very respectfully,

F. H. HOWE.
HENRY HODGES.

GEORGE BLISS, Esq.,
160 Broadway, New York City.

MARCH 29, 1884.

SIR: I have to-day a letter written by your direction by Messrs. Howe and Hodges trying to explain the delay in passing my bills. I trust the explanation is satisfactory to you. It can be to no one else. They now by your direction say Mr. Woodward delays them and they are waiting his return. Now, conceding that it is important for your agents to see Mr. Woodward to be able to report to you whether I *lied* to you or not, for this is obviously the object of the inquiry, unless, which clearly could not be the case with an officer like you holding a position of honor, the whole thing is an excuse for delay pending Congressional action; conceding, I say, the importance of seeing Mr. Woodward as to my bill rendered for services prior to November 19, there can be no plausible pretense of any such necessity as to my bill for services after that date. These services were rendered chiefly on your direct, written, urgent personal orders. So far as they were not so rendered Mr. Woodward had and could have no knowledge of any facts bearing upon them. Even if, as to the services not rendered in Washington, there can be any necessity of further inquiry, there cannot be as to those rendered there, and the bill could long since have been passed as to these items. But in fact as to all the services you could long since have sufficiently informed yourself.

You hold a position of honor. You are bound to act *in some way* regardless of fears of public clamor or other causes. To that duty I, as a citizen and a subordinate, have a right to hold you by private appeal, and, that failing, by public complaint.

Your obedient servant,

GEORGE BLISS,
Special Assistant Attorney.

Hon. BENJ. HARRIS BREWSTER,
Attorney-General.

In re United States vs. William P. Kellogg.

DEPARTMENT OF JUSTICE,
Washington, March 29, 1884.

SIR: To-day upon an application upon the part of the defendant, Mr. Kellogg, the court ordered his case to be tried upon the 21st day of April, and this makes it necessary for me to express to you a determination I have had in my mind for some time past, and which certainly will not be unpleasant for you to learn, as it conforms to the frequent offers made by you to me to surrender your charge of the star-route cases, to wit, that I will for the future dispense with your services in any of the star-route cases.

I do so for two reasons: First, because there is no necessity for your services; secondly, because it relieves the Government of large expense necessarily incurred by bringing you here, and requiring your action in the cases.

It was for this reason that I did not give you or Mr. Ker notice of this Kellogg matter to-day, for inasmuch as at present Mr. Merrick has had the charge of endeavoring to find Mr. Walsh, he alone was required in court to state what he had done and how he had done it. All that you had done was made plain in the former application, and I therefore did not think it necessary to expose you to the trouble or the Government to the expense of bringing you here to appear in the case and answer the application, knowing it could not be very agreeable to you to be so vexed with this matter.

Mr. Merrick will withdraw from the cases also. This is a piece of personal information that I give you. He has for some time past, by letter and orally, urged me to be permitted to withdraw. I never have intended that he would try the cases after the vehement charges made by Mr. Kellogg that Mr. Merrick was instigating the cases for malicious reasons. I thought that Mr. Merrick's own dignity of character and self-respect would forbid his taking charge of the case when he rested under such accusation from the defendant; and so Mr. Merrick thought himself.

All papers that you have in the star-route matters properly belonging to the Government, all of them, you will please transmit to this Department at your earliest opportunity, for they are of value, and it may be necessary to use them at some future day. Of course I do not mean those papers that are strictly your private papers, but I mean those that were received from the Government, and also, without invading your private rights, if there be any that have been prepared by yourself, which if surrendered would be of service to the Government, I desire them. Please give this your early attention.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
Attorney at Law, 160 Broadway, New York City.

[Bliss & Schley, attorneys and counselors, 160 Broadway.]

NEW YORK, April 7, 1884.

SIR: I am compelled again to call your attention to my last bill rendered for services since November 19, 1883. Of the amount \$1,100 was for services rendered in Washington and on your especial direction. Among others, I have dispatches of November 22, 24, and 25 insisting upon my coming. Again on December 12. That I should not be promptly paid for services rendered is little less than an outrage.

I may add that I find I was in Washington on November 14, 15, and 16, for which I have made no charge. Your letter of 16th is to me at the Arlington, nor have I charged expenses.

The other items of the bill I recognize that you have the right to adjust, but I think I have the correlative right to have action on your part.

Your obedient servant,

GEORGE BLISS.

HON. BENJAMIN H. BREWSTER,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington. April 10, 1884.

THE ATTORNEY-GENERAL:

In compliance with your directions of the 4th instant, we have examined the original papers in the Post-Office Department in the pending star-route cases, wherein George Bliss, esq., was special counsel.

They are of a twofold character: (1) Those called "straw-bond cases;" and (2) those cases against parties charged with other criminal acts.

The first, commonly called "straw-bond cases," are against parties who obtained contracts on bonds whose sureties were valueless. These parties faithfully performed their duty to the Government under their contracts. Their acts were acceptable to the officers under whose supervision they were, and the Government lost nothing through them. The chief offender in procuring contracts on irresponsible bonds was A. E. Boone.

The indictments against the other parties stand. The indictment against Boone was nolle pros'd that Boone might be made a witness for the Government in the case of the United States against John W. Dorsey *et al.* for conspiracy, &c. It is deemed conclusive by officers of the Post-Office Department that the condonation of Boone works the condonation of the other parties charged with securing contracts on valueless bonds. Mr. Boone being the chief offender, it may hardly be deemed judicious to prosecute the small offenders.

The history and nature of these "straw-bond cases" are presented in a "letter of the Postmaster-General, transmitting to the President a letter of special counsel, and a report of the Post-Office inspectors upon fraudulent bonds," dated January 3, 1882. The letter and accompanying exhibits make a pamphlet of 85 pages. The pertinency of revising these cases and the accompanying documents depends entirely upon the propriety of their prosecution.

The remaining indictments falling under the second class, above specified, are the cases against (a) Brott and Lilley, (b) Kellogg and Price, and (c) the Messerole indictment.

(a) The papers in the Brott and Lilley case, consisting of the indictment and statement of evidence in its support, together with manuscript notes of special officers and special counsel, are less than 46 pages of legal-cap manuscript.

(b) The papers in the case against Kellogg and Price, consisting of the indictment, the drafts that were paid, with copies of letters and Price's contract and reports of Post-Office inspectors and their accompanying affidavits, are less than 50 pages of manuscript, some large and some small.

(c) The papers of the Messerole indictment with detail of evidence, inspector's reports, and miscellaneous letters, with contract and bond, are less than 45 pages in manuscript.

These papers have, since the 1st of July last, been wholly within the control of the Post-Office Department, and it is not believed that within that time they have been withdrawn from the Department room in which they are kept. They are the material upon which the indictments stand and which must be used in the prosecution. They fall below 141 pages of manuscript, 100 pages of which, although necessary to the establishment of the case, are not, *per se*, essential to the understanding of the cases except upon a first perusal, being exhibits, canceled drafts, &c.

The remaining 41 pages reduced to ordinary pamphlet form would probably make ten printed pages of the form of pamphlet referred to above.

These are the cases in which the papers, or memoranda and abstracts of them were in the hands of Mr. Bliss.

They embrace all the documents upon which the indictments are based.

Very respectfully,

HENRY HODGES.
F. H. HOWE.

The following papers are referred to in the testimony of the Attorney-General, or relates to matters therein referred to :

Memorandum by the Attorney-General as to the bills of Mr. Bliss.

DEPARTMENT OF JUSTICE,
Washington, May 12, 1884.

The unpaid bills of Mr. George Bliss have been the subject of very careful, serious, and thorough examination in this Department. The first bill he rendered was for \$9,200 from April 7, 1883, to November 19, 1883. Believing this bill to have been for services rendered within the past fiscal year, during the trial of the case against Dorsey and others, it was, in the way that his many bills have been presented and acted upon, approved with other accounts put before me, having been submitted to the auditor of the Department and to those having in charge accounts like these.

After that was done the First Comptroller of the Treasury requested me to have Mr. Bliss apportion the amount due him between the two fiscal years, so that he might determine what portion of it was for work actually done within this fiscal year past, so as to be paid out of the current appropriation, and what portion of it having been actually done in the last fiscal year must be reported to Congress in the application for a deficiency appropriation. After some time had passed, and upon repeated requests, and with much hesitation and delay and complaint by Mr. Bliss, and with great reluctance, he did apportion the bill, assigning \$4,700 of it to the last fiscal year for work actually done during that year, and \$4,500 to the present fiscal year for work actually done during the present fiscal year. In my absence, upon that apportionment so made by him, the Acting Attorney-General, Mr. Solicitor-General Phillips, allowed Mr. Bliss \$2,500 on account of the \$4,500 charged to the present fiscal year, and he was paid that money. That left due, as claimed by him, \$2,000 on the bill for the present fiscal year.

Thus it appeared by this apportionment that nearly one-half of the services charged for by Mr. Bliss were given by him in the present fiscal year, and after the second trial against Dorsey and others had ended, and when it was not possible for Mr. Bliss to have occasion to perform much labor in the so-called star-route cases, and certainly no labor here at the rate of \$100 a day, which rate was paid him, as he said, in consideration of his absence from his business and the loss that would necessarily ensue from leaving his home and clients, and being in Washington. In fact, all such services as charged for must have been rendered in New York.

When the bill for \$9,200 was rendered it was understood from Mr. Bliss by the officers of this Department and by myself that the sum of \$9,200 was earned during his trial of the Dorsey case, for no one knew of any other service that he was called on to render. Having stated the amount which he said was earned for other services, he was required to say in detail what were the services he rendered after the case against Dorsey and others was closed to warrant a charge of \$4,500. He replied on January 22, 1884, that after the Dorsey case was closed he went into a most careful and exhaustive examination of all the remaining cases, going over all the facts and evidence, and that this extended over many weeks. This was done in New York, where he was exposed to no unusual loss by absence from his business; done at home and in his own office in conjunction with his other affairs. Why he should undertake this any more than the other two counsel in the case I do not know, and if done at all with a view to learn the facts and evidence so as to determine what ought to be done, it ought to have been the subject of a conference between them all, and not by his individual action to form only his individual opinion. Had all given the same services he did, in a like way and at the same rate of charge, this labor, however necessary, would have been excessive in its expense. I did not authorize it; it was a work that was not needed; it was done by him without ever even intimating to me that he thought it necessary or that he was doing it; and I will not approve it. Mr. Woodward, the Post-Office inspector, who from the first has had these cases in charge, and without whose help Mr. Bliss and all the counsel would have had no information to enable them to conduct any of the cases, was called upon by my authority to learn what time would be required to do what Mr. Bliss states he did in New York, and for

which he made this high charge. Mr. Woodward had in his exclusive custody all of the papers which Mr. Bliss alleged he examined in New York, and he stated that the charge made for that service was excessive, and that such work could be done in a very short time.

In fact, upon February 11, 1884, I did write to Mr. Bliss relating to this very charge, telling him that I did not know he had performed it, and that it was a service which I had determined not to authorize till I had considered the advisability of at present pursuing any of the pending criminal cases.

After this expression of opinion by me to Mr. Bliss, made February 11, 1884, he undertook, on the 18th February, 1884, to change the basis of his apportionment so as to avoid my ruling, and assigned to the last fiscal year \$6,750, instead of \$4,700, and to the present fiscal year \$3,500 instead of \$4,500.

This cannot be permitted. It is experimenting upon the Department. When Mr. Bliss in the first instance, with deliberation, assigned \$4,700 of his bill to the last fiscal year he knew exactly what was right, and what work was done in that year, and he was the only man who did know. He did it with deliberation after he had objected to the call of the First Comptroller to have such an apportionment. The advantage he would obtain by this change would be to transfer more than \$1,000 of that which he said was for work done in reviewing the cases and papers, to work done of a wholly different character in trying the cases in Washington, and that work done in Washington had not been objected to as being without authority, while the other work I had already declared to him was unauthorized.

By this act he reduced his claim for the present fiscal year to \$3,500. Of that he has received \$2,500, and that leaves only \$1,000 due to him in this present fiscal year, and only \$1,000 subject to the objection that I had expressed to him as being expense incurred for unauthorized labor, and at a rate that was inadmissible. It is very plain that it would be an act of injustice to the Government to permit him now, as an after-thought, to charge \$6,750, which he can secure for services which a few months ago he valued at \$4,700, a change made solely for the purpose of escaping from my ruling of 18th February, and thus secure that which he knew I had resolved to reject as being for unauthorized and unnecessary services rendered in New York within this fiscal year when all that was charged in the last fiscal year was necessarily for services given in Washington in the Dorsey and Brady trial.

I concur with the opinion expressed by those officials to whom this matter has been referred, and who have carefully examined it, that Mr. Bliss has received and been paid all that he has a right to receive and be paid for every service rendered by him between July 1, 1883, and November 19, 1883, and that the \$2,500 which he has received is the utmost that ought to be allowed him, and even that I fear is excessive. But as professional charges cannot be measured as ordinary business transactions for merchandise or other commodities, and as there is no positive standard to go by except the circumstances connected with each particular case and the position of each particular person who charges, and because the Solicitor-General did allow this payment of \$2,500 without a knowledge of all the facts which were revealed by these subsequent inquiries made of Mr. Bliss by my direction, and this subsequent action of Mr. Bliss himself reapportioning his bill in this irregular way, I am constrained reluctantly to confirm even this.

Since Mr. Bliss presented his bill for \$9,200, he has rendered a second and other bill for services professed to have been given from November 19, 1883, to February 17, 1884, beginning where the last bill ended. That bill is for \$2,100.

The charges are for services against Spencer and Kellogg, and some miscellaneous work probably. I concur in the judgment of the officers who have investigated this account, and I think the charge should be reduced. Spencer's case was a failure and signally so, according to the judgment of the court, from a very serious oversight and neglect upon the part of Mr. Bliss.

The large expense incurred first in hunting the man up, and then in bringing him here, was all wasted and lost by an act that Mr. Bliss alone is responsible for, as in effect is expressed in the opinion of the judge. In the Kellogg case I know of no service that Mr. Bliss rendered except in advising those who were seeking to subpoena Mr. Walsh, and for most he did in that matter part of the \$2,500 allowed him from July 1, 1883, can very properly be applied. As to the general services in the Kellogg case, remembering he disavored the prosecution, I cannot see how any charges could be made by him in that case except those that related to the attempt to obtain Mr. Walsh.

I therefore decide that on this last account Mr. Bliss can only receive and be allowed the sum of \$1,600.

BENJAMIN HARRIS BREWSTER,
Attorney-General.

George Bliss's second apportionment of his account for services from April 7, to November 19, 1883, rendered for \$9,200. (See letter February 18, 1884.)

Fiscal year 1883:	
Services in Washington and travel to and from (sixty-four days)	\$6,400
Services in New York.....	350
	\$6,750
Fiscal year 1884:	
Services in Washington in Kellogg matter and other Government business	500
Services in New York in Kellogg case, &c	1,000
Examination of all the other star-route indictments and of reports and evidence in the untried cases, &c.....	2,000
	3,500
	10,250

NOTE.—The several items stated by Mr. Bliss in the above apportionment, if added together, come to \$10,250, but he has not gone so far as to ask more than \$9,200, the sum for which the account is rendered.

Comparative table of above apportionment, and the former and original one in letter of December 20, 1883.

	First apportionment.	Second apportionment.
Fiscal year 1883.....	\$4,700	\$6,750
Fiscal year 1884.....	4,500	3,500
	9,200	10,250

Mr. Brewster Cameron to Mr. Brewster.

DEPARTMENT OF JUSTICE,
Washington, May 28, 1884.

SIR: Having read a newspaper interview with Mr. Kellogg in which he denied your statement to a Star reporter in this city, that he appealed to you to be relieved from persecution, and that he cried and implored your help, my recollection of his personal importunities at the Department of Justice from the very beginning of the proceedings against him has been roused, and I feel it my duty to make the following statement; and in that way make a record which I can leave with you to counteract any reckless stories that he may wantonly utter, when I will be far away in my new employment and unable to respond promptly to any call you might make for a counter-statement from me.

I saw Mr. Kellogg repeatedly in your office in the Department of Justice in the summer of 1882, while he was still a Senator of the United States, and at or about the time when the proceedings were first begun against him before the grand jury, beseeching you not to permit him to be indicted.

The first time I saw him in conversation with you elsewhere was also in the summer of 1882, at your rooms in Wormley's Hotel, where he was on his knees in front of your bed, holding one of your hands in both of his and crying aloud, and imploring you most piteously to save him. Mr. Kellogg did not see me when I opened the door of your bed-room, but when you looked up and told me to come in, Mr. Kellogg said to me, *sotto voce*, that he was engaged with you in private conversation and indicated that I step out. You interrupted him and said you wanted to see me and told me to remain, which I did. Mr. Kellogg then rose from his knees, but still holding fast to your hand, and, with tears rolling down his cheeks, he thanked you for a note you had given him, and begged you to interpose and save him. You told him to go and hand Mr. Bliss the letter you had given him, which you had written and handed to him before I came. He then left in a much disturbed condition of mind and manner.

You then arose from your bed where you had been lying, and said you were much worn out by the intense heat of the weather and by the constant application to your duties, and by your study of the star route case (you were then preparing yourself to close the argument), and you told me that Mr. Kellogg had been harassing and worrying you, and that you had in vain asked him to leave you and let you have rest, and finally, to get of him, you had told him to go to Mr. Bliss, who had charge

of the prosecution, and talk with him, and that Mr. Kellogg had said to you that Mr. Bliss, perhaps, might not feel authorized to listen to him, and he therefore asked you for a note to Mr. Bliss, and you had scribbled off one; and that that was the note I heard you speak of to Mr. Kellogg. You then said to me that your only object in giving Mr. Kellogg that note was to get rid of him, for you were resolved to have that case disposed of on its merits.

I replied that Mr. Kellogg would surely abuse the note and persuade Mr. Bliss to take some action in his behalf, which you did not wish, using it as a kind of letter of authority for such purpose. You said Mr. Kellogg had always been amiable to you, but if there was any danger of that, I should go at once to the "Arlington" Hotel and see Mr. Bliss, and explain to him how you had given it, merely to get rid of Mr. Kellogg, and he must not regard it in any other light.

I accordingly at once left you and went to Mr. Bliss at the Arlington, and after some delay saw him and told him you said he should attach no importance to the note; that you had directed me to say that you were tired and worn out and that you were obliged to give the note to Mr. Kellogg, who was in great trouble, to get rid of his appeals. This is one of the many appeals he made to your sympathies in my presence.

I do solemnly swear that the above statement is correct and true in each and every particular, so help me God.

BREWSTER CAMERON.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

Sworn to and subscribed before me this 23d day of June, A. D. 1884, at Tucson, Ariz.
C. S. JEFFORDS, *Clerk.*

Mr. Bliss to Mr. Brewster.

(Personal.)

NEW YORK, *January 9, 1884.*

DEAR SIR: I judge an investigation is to be made of the Department of Justice. For my part I am glad of it. It will cause you—and me to a less extent—some inconvenience, but it is the only way of meeting the misstatements and mis-inferences of the reporters and the thieves. In view of it, however, permit me to suggest that before you make any statements as to the star-route, Ottman, &c., you cause your records to be fully examined. I suggest this because in going over my papers I find that you have on various occasions forgotten things which had been done, a result quite natural in your mass of business and yet to be avoided in a public investigation. For instance, it has escaped you apparently, as it had me, that the rate of payment of \$100 per day and expenses was fixed by a letter from you to MacVeagh and his acceptance of it, though there had been previous verbal communication between me and Mr. MacV. Again, as to the civil suits. They were placed in my hands by Postmaster-General James before you became Attorney-General. You approved it in writing both before and after you became Attorney-General. Subsequently you have treated the matter as undecided where they should go and then sent the Dorsey cases to me (though you have never yet answered as to whether this covered Vail). Of course in this matter you have acted with my entire concurrence, but I wish to remind you of this record. So in the Ottman business there should be accuracy as to what was done and why and how. Your records will show all this, I think.

In the civil suits I failed in my scheme to get jurisdiction of Dorsey here because Bosler died. I do not, however, give it up absolutely.

Your obedient servant,

GEORGE BLISS.

Hon. BENJAMIN HARRIS BREWSTER.

Extract from letter to George Bliss, signed by the Attorney-General.

JANUARY 10, 1884.

As to the Ottman case it was brought to my knowledge in the first instance by yourself. You urged the hearing of it, and the disposition of it, and satisfied me by your statements that it ought to be disposed of. In view of your knowledge of the subject, which was made plain to me by your statements and your urgent request to have it disposed of, and because of my confidence in you, I requested you to examine it and report upon it, upon a condition suggested by yourself that you receive no pay

for so doing; and you consented to do so. I approved of your report, and I do not disapprove of it now. Perhaps it would have been better, in the light of the criticism that it has been subjected to, that instead of sending it to you I had sent it to the Solicitor-General and had him dispose of it, but at the time I did it I was not very familiar with the machinery of the office. I know now what I would do; I would send it to the Solicitor-General. But under any circumstances I see nothing in it that has been done to be condemned, unless it is distorted and abused.

Mr. Bliss to Mr. Brewster.

(Personal.)

BLISS & SCHLEY, ATTORNEYS AND COUNSELLORS,
160 Broadway, New York, January 11, 1884.

DEAR SIR: I have yours of 10th. It illustrates the importance of what I wrote you as to the necessity of accuracy in the matters which, out of the myriad which have passed under your charge, are likely to be the subject of investigation. You say, "As to the Ottman case it was brought to my knowledge in the first instance by yourself" (me). Now this is a great mistake, and a moment's reflection will convince you of it. Had I brought it to your knowledge you never would have committed the manifest impropriety of referring it to me to investigate.

In fact it was brought to your notice by Colonel Corkhill, who stated that Ottman had made an application to him, that he had been Ottman's counsel and could not act. You will find Colonel C.'s letter on file, though I think that was written after a prior interview. You consulted me as to who should be employed to look it up. There was a suggestion of Totten, but he was then in the star-route case against us, and moreover you distrusted anything that seemed to be suggested by Corkhill or Ottman. Jere Wilson, Wells, and others who had been in the case were all talked over and dismissed. You asked me to quietly find out something about the Washington lawyers. My quest was unsatisfactory, and then it was suggested that I should act. I agreed to do so provided I was to do it as a friendly matter to you, and was not to be paid, and I did it. I merely call your attention to this as it emphasizes what I said before.

You are wrong in saying I knew anything about the case when you first spoke to me about or when you referred it to me, except as stated in Corkhill's letter. I got my knowledge afterwards.

Yours, truly,

GEORGE BLISS.

Hon. BENJ. HARRIS BREWSTER.

Mr. Brewster to Mr. Bliss.

DEPARTMENT OF JUSTICE,
Washington, January 12, 1884.

MY DEAR SIR: Your letter of January 11 is received. Notwithstanding your letter, my recollection now is distinct that you did speak with me about the Ottman case, and disclaimed any interest in it, the first I knew of it—disclaimed any personal interest in it whatever, and referred me to Colonel Corkhill upon the subject.

There was no manifest impropriety in my appointing you to look after it. If there was I should have been advised of it at the time, and I do not believe that there was any at all. I did not think so then and I do not think so now; unless there is something that I know nothing of. You spoke to me upon the subject, stated that you had been spoken to, and having confidence in you then, as I have now, I asked you to look into it, because you had spoken to me, or I never would have spoken to you. But that is a matter of no consequence, whether you did or did not speak to me first. If there was a shadow of impropriety in my sending it to you, you were the first person to see it and would have told me of it, and I am yet to learn it now, except from the slurs and slings that are made at you by insolent, defaming newspaper writers.

It matters not whether you or Colonel Corkhill called my attention to it. I have to say this as to it: it was a thing wholly unknown to me until my attention was called to it, and my recollection is you were the person that called my attention to it, and the letter that Colonel Corkhill subsequently gave me I obtained from him.

You were, as you say, consulted by me as to who should be employed to take it up

and look into it, because it seemed to be a complex thing that required to be sifted; and Mr. Totten's name was mentioned. If it was by Mr. Corkhill I do not know. Certainly at that time we both distrusted Mr. Corkhill, for you wrote me a positive letter that you would withdraw from the case unless he was expelled from the district attorneyship, and he stood in that light when we began. And you mentioned these other names, none of whom I knew at that time. I hardly knew Mr. Totten, and as to Mr. Wilson and Mr. Wells, I did not know them; and in talking with me you mentioned over these other names. They were men unknown to me, and I was guided by your judgment of them, and knowledge of them.

I did suggest that you should take it, and you did agree to do it as a friendly act for me, and that you were not to be paid. But I do not see what matter it makes whether you spoke to me first or last. I have written to you according to the best of my recollection and belief, and that recollection and belief I still maintain. I do not see how it affects the result in any way. The purpose of the submission was a prudent, judicious, and honest one, for the good of the public service, and to dispose of a suspended and vexed question that ought to have been disposed of, and I believe it was properly disposed of, and if I had to do it again I would do it to-morrow just as I did it then, except in this: That having a better knowledge of the details of the business of the office than I then had, and having been brought more directly in contact with its different officials, I would have asked the Solicitor General to take it in charge, and make his report upon it. I did not do that because, as I say, I saw he was occupied in court, and I did not suppose he would be willing or able to assume such an investigation, but I have since learned that he is both willing and able, and does it, as he does everything else, with ability and integrity, and for the public good.

Very truly, yours,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
Special United States Attorney, &c., New York City.

Extract from a letter of George Bliss to Attorney-General, dated New York, September 27, 1882.

You call upon Cameron and Bowen to answer Dickson's charges. When they do this give Dickson a chance to present any evidence or statement, and publish the whole. Cameron and Bowen's statements will put Dickson in a bad position.

Mr. James to Mr. Bliss.

POST-OFFICE DEPARTMENT,
Washington, D. C., December 17, 1881.

SIR: From an examination of the records of this Department, I have been convinced that money has been paid out of the funds of the Government to certain persons under circumstances which bring such payments within section 4057 of the Revised Statutes in a number of instances.

The evidence, which seems to me sufficient to maintain suits by the United States to recover such moneys, is on file in this Department. Copies of much of it are already in your hands.

In compliance with law I hereby request that unless you shall differ from me as to the weight of the evidence you will cause suits to be instituted in the name of the United States for the recovery of said moneys illegally paid from the parties who received the same.

Very respectfully,

THOMAS L. JAMES,
Postmaster-General.

Hon. GEO. BLISS,
Of Counsel in Star-Route Mail Cases.

Mr. Bliss to Mr. James.

WASHINGTON, December, 18, 1881.

DEAR SIR: The request contained in your letter of yesterday that suits should be commenced to recover moneys illegally paid to contractors with the Post-Office Department is received.

When I first became connected with the cases known as the star-route cases I called the attention of the Attorney-General to the propriety of commencing civil

suits such as you suggest. He fully agreed with me, but the matter has been delayed in consequence of the unexpected labor connected with the preparation of the criminal cases. I was and am unwilling that any idea should go forth that criminal proceedings were to be forborne or delayed, and civil proceedings substituted. If frauds such as I believe can be shown to have been committed in these cases cannot be punished by convictions in the criminal courts, it is more important to show this fact to the law-making power and the public, and thus secure a change in the law, than to recover for the Government even the whole of the large amount wrongfully taken from the Treasury. I do not believe that our criminal laws—defective as the United States statutes are in all criminal matters—are so defective that crimes such as these are not punishable. Nor do I believe that there will be any hesitation on the part of juries in convicting on proper evidence, such evidence as I believe we can present. Under this conviction I have temporarily put aside the question of civil suits and have devoted myself to the criminal cases.

Even you, familiar as you are with these cases, can have little idea of the amount of labor which has necessarily been bestowed upon the preparation of them. The witnesses are scattered over thousands of miles. Hardly one of them is less than 1,500 miles from this city, and many of them are twice that distance. These witnesses have been sought out by your inspectors with an energy, fidelity, and perseverance rarely combined in subordinates either in public or private life. The thousands of pages of testimony thus gathered, together with that furnished by the voluminous records of the Post-Office and Treasury Departments, have been examined, arranged, and abstracted first by Inspector Woodward and then by counsel with an amount of personal labor far beyond anything I anticipated when I came into the cases, and far beyond anything I would then have been willing to undertake. In this examination breaks and omissions in the chain of testimony have been discovered and supplied. The criminal cases naturally divide themselves into four or five great combinations. We have this week completed to our satisfaction the preparation for the grand jury and for trial of the evidence as to one of these combinations, and though, as a general rule, I prefer not to say anything as to what we expect to do, I may mention that I intend to issue this week subpoenas for about sixty witnesses to appear before the grand jury as soon after the New Year as that body will be ready to examine them.

A good deal of progress has been made in the preparation of the criminal cases connected with the other great combinations, so much indeed that, so far as I can perceive, there is no danger that the statute of limitations can bar any of the cases. I hope they will be ready for the grand jury and for trial as soon as jury and court can attend to them.

Under these circumstances your request for the commencement of civil suits seems to me timely. Personally, I have no authority to commence such suits, but you and I know that the senior counsel, who was yesterday confirmed as Attorney-General, will not hesitate to give the requisite authority, for one of the chief reasons for his selection for that position was his avowed determination to press the star-route cases. I shall at once transmit to him a copy of your letter and ask his approval. When received I will cause civil suits to be commenced in those cases in which the evidence in the possession of the Government seems to justify such a course. You will, I know, agree with me that these civil suits should not in any way supersede the criminal prosecutions, for punishment of the offenders is of infinite more importance than the recovery of money. Both civil and criminal proceedings will be pushed as rapidly as is consistent with justice to the Government and to the defendants, though it is quite possible that you will not find the progress so rapid as you desire.

Your obedient servant,

GEORGE BLISS,
Special Counsel.

Hon. THOMAS L. JAMES,
Postmaster-General.

Mr. Bliss to Mr. Brewster.

OFFICE OF BLISS & SCHLEY,
New York, December 24, 1881.

DEAR SIR: Though aware that you have not taken your official oath and entered upon your duties as Attorney-General, yet in order that delay may be avoided I send you copies of a letter which I received in Washington from the Postmaster-General and of my reply.

In my opinion there are a considerable number of cases in which the Government is entitled to recover for moneys received in violation of the sections of the Revised Statutes referred to by the Postmaster-General. I have called upon that officer for a tabular statement of all payments made on account of incurred or expedited service,

arranged by quarters and giving the persons to whom paid, for it may be the fact that if there was a subcontractor recognized under the law and to whom payment was directly made it may in some cases affect the right of the Government to recover.

I write now only to suggest that you will consider the question so far in anticipation of your assumption of your duties as to express to me your approval of the course I have indicated in my letter to Mr. James.

You will perceive that I assumed that any general retainer from the Attorney-General "in the cases known as the star-route cases," included the civil as well as the criminal cases. Technically I presume the suits must be brought by the district attorneys in the several districts, who will appear on the record, but the management is properly intrusted to a person directly appointed by the Department of Justice. He would, however, need to be appointed as an assistant attorney-general and not as an assistant district attorney, which is the only commission I hold.

Your obedient servant,

GEORGE BLISS.

Hon. BENJAMIN HARRIS BREWSTER.

Mr. Brewster to Mr. Bliss.

706 WALNUT STREET, PHILADELPHIA.

Monday, December 26, 1881.

MY DEAR SIR: I have received your letter, together with the correspondence between yourself and Mr. Postmaster-General James. I read it all with satisfaction and approve of that which you have written. As soon as I enter on the duties of my Department, which will be in a few days, I propose to give you a special authority to pursue those suggested civil suits with all of the promptitude that orderly litigation will permit.

The uttermost penny lawlessly received and taken from the public treasury must be recovered. Hitherto you have given diligent attention to the criminal proceedings, and before I came into the cases had acquired complete knowledge of the subject. More prosecutions must be earnestly pressed. The trials must be prompt and the cases must be well prepared. On you, together with the other counsel who have been before this investigating these cases, I must refer these in preparation. All that is essential must be ready for use. I have resolved that my duty will require me to take active part in the trials in court, and I propose to be present with you and in person lead in the prosecutions for the United States.

BENJAMIN HARRIS BREWSTER.

Col. GEORGE BLISS.

Mr. Brewster to Mr. Bliss.

DEPARTMENT OF JUSTICE,

Washington, June 4, 1883.

DEAR SIR: To-day Mr. Postmaster-General Gresham called upon me to learn what had been done with reference to suing these indicted star-route men under the act of Congress to recover back the money that they have frauded the Government of. I told him it was my impression that I had, in conjunction with Postmaster-General James or Postmaster-General Howe, requested you to take charge of those matters, and that you had suspended action in them because of the existing criminal proceedings, thinking it more prudent to wait until they were done.

He also alluded to the Salisbury case, and that reference. He is very eager about both; wants them both to be prosecuted for the purpose of collecting the money, and thinks it is his duty not to delay the matter, and I rather coincide with him. I wish you would see him at once upon this subject. I told him you and I had much correspondence upon the subject of that Salisbury matter. I wish you would explain it all to him. It is important that you should see him and explain all that you know about it.

I am respectfully, &c.,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,

Special Assistant United States Attorney in the star-route cases, Washington, D. C.

Mr. Bliss to Mr. Brewster.

WASHINGTON June 15, 1883.

DEAR SIR: Referring to our conversation as to the civil suits in star-route cases, I beg to say that on December 17, 1882, Postmaster-General James requested me by letter to commence civil suits against persons not named but referred to in general terms. These suits were not commenced, because as to all, except the persons just acquitted, an arbitration was arranged, which has only recently been abandoned.

It was apparently Mr. James's view that the Revised Statutes gave him in Post-Office cases the absolute right to select counsel. I was of that opinion, but his selection of me was approved by you.

Now that suits are to be commenced, permit me to say that the Post-Office authorities have recently sent some twenty-four cases to the Sixth Auditor, who will in routine make them up and forward them to the Solicitor of the Treasury. The latter will, unless he receives special directions from you, forward them to the proper district attorneys where defendants reside. The Postmaster-General will, I am advised, notify you of these cases.

Now, as to myself, I do not wish the Government or you to feel bound to me by what has passed. If for reasons of economy or for other reasons it is considered desirable to place these suits in other hands I will gladly concur and assist in every way in my power the person or persons so selected. If, as seems likely, from the necessities of jurisdiction, the suits must be brought in various and distant States, I should greatly hesitate unless I was held to be bound by what has occurred to take charge of them in the sense of having to go there and try them. Wherever brought I am content if desired to supervise their preparation, the pleadings, &c., and thus to place at the service of the Government experience and knowledge already acquired. Of course for such services I should expect compensation at a rate to be arranged with you.

Your obedient servant,

GEORGE BLISS.

Hon. Benjamin HARRIS BREWSTER,
Attorney-General.

Mr. Bliss to Mr. Brewster.

JULY 24, 1883.

DEAR SIR: One or two paragraphs in the newspapers remind me that it is possible I may be held to a responsibility while not aware of it.

As to the civil suits in the star-route cases I wrote you at some length early last month, I think it was, and also had a conversation with you. I called your attention to the fact that while I had been employed in these cases by Postmaster-General James, and with your approval had done something in them, I did not feel sure that *you* had ever directly sanctioned my employment; that if the cases were to be tried in various forums where jurisdiction could be got, I did not feel that I ought to undertake the responsibility of trial, nor that you ought to incur the expense of employing me to leave home continuously; that, however, if it was desired, I should be glad to continue in charge of all that class of cases as special counsel, preparing the papers, selecting and securing jurisdiction in the places where it seemed probable the fairest trial could be had, and instructing the district attorney or whoever else might be selected to try the cases, this to be done at a compensation to be fixed by you, either beforehand or after the work was done (though the statute probably looks somewhat to the former, which, however, is, I think, not followed in practice).

This idea seemed, in conversation, to commend itself to you, yet I did not understand that you decided it finally. Now I see it stated in the papers that I am "in charge of the civil suits." If you consider me so, please say so, and I will endeavor to justify your confidence. But, on the other hand, consider yourself free to act wholly without reference to the past.

Yours truly,

GEORGE BLISS,
Special Assistant Attorney.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

Whoever has charge of the cases, permit me to say that they should be brought with great care, and so far as the pleadings are concerned, in a form outside of the usual one in Post-Office cases.

Mr. Brewster to Mr. Bliss.

HOWLAND HOTEL, LONG BRANCH, N. J.,
July 25, 1883.

DEAR SIR: Your letter of the 24th of July was handed to me to-day. Some month or more ago—perhaps two months—as I have advised you, the Postmaster-General communicated with me upon the subject of the civil suits arising out of the star-route cases. In consequence of that I put you in direct communication with him, and I conveyed to him copies of all the correspondence between the Department of Justice and yourself as to these cases. You gave me a verbal but brief account of your interview with the Postmaster-General, and I understood you to say that you were to be retained to assist in some general way in the prosecution of those civil suits.

I have not the correspondence by me at this place, or probably I would find in some one of your notes written to me at or about that time a statement of the result of your interview with the Postmaster-General, and what you understood your position to be. My recollection now is that you were to have charge of them in some general way, and much was to be left to your discretion as to when and where you would appear, your desire being that you would not add expense to the case by going to any remote point, if it would be necessary to bring suits other than in Washington or New York, or in some other convenient jurisdiction. Indeed, if I am not much amiss, I now remember that it was your purpose mainly to supervise such suits as might be brought in Washington or in New York, so as to avoid expense that would be occasioned by your absence from your business in New York.

Since that time the Postmaster-General has verbally said to me that he was having the papers prepared for the purpose of directing suits to be brought. I believe much labor was necessary to arrange the papers, and adjust the accounts, and get things ready for the suits. You know that by statute it lies with the Postmaster General alone to direct suits or not to direct them. I have no power, except as I am requested by him, to direct action to be taken, or to take action myself. When he reports to me the result of his preparations, and requests me to bring certain suits to recover claims, of which I can know nothing unless they are so reported to me, I will then be ready and prepared to communicate with you.

When I first became Attorney-General and we advised together upon this subject it was after you conveyed to me the information that Mr. James had deputed you to take charge of these civil cases, and I understood from you that before you intended to act it was your wish that I should know that you so proposed to do, that I should know by what authority you would undertake to act, and that you wished to have my sanction as the head of the Department of Justice to any such suits as you might think it proper to bring under the authority given to you by Mr. James. Then I promptly accepted your proposals and suggestions and assented to your immediate action if you thought it necessary, under the instructions you had received from the Post-Office Department.

The impression I had soon after that communication made by you, and to which I responded, I believe, in writing, was that it was considered inexpedient to begin those civil suits at that time, because of the urgency of the criminal proceedings; and from time to time since then, in my letters to you, I have adverted to these outstanding cases and reminded you of them, indicating my intention to speed them whenever the Post-Office Department and yourself were ready to act; and I have been ever since prepared to sanction such suits, and instruct and direct them when they were brought.

The suggestions of your letter of the 24th of July I will remember. I will also send a copy of that letter to the Postmaster-General, and of this also.

Very respectfully yours,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

GEORGE BLISS, Esq.,
Special Assistant United States Attorney in the star-route cases, New York City:

Mr. Brewster to Mr. Gresham.

HOWLAND HOTEL, LONG BRANCH, N. J.,
July 25, 1883.

SIR: With this I send to you a copy of a letter this day received by me from George Bliss, esquire. I also inclose to you a copy of my answer to him.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

Hon. WALTER Q. GRESHAM,
Postmaster-General, Washington, D. C.

Mr. Gresham to Mr. Brewster.

POST-OFFICE DEPARTMENT, OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., July 27, 1883.

SIR: I am just in receipt of your letter of the 25th instant inclosing a letter addressed to you by George Bliss, esq., on the 24th instant, and your reply thereto of the 25th instant.

The Second Assistant Postmaster-General is at work industriously preparing cases for civil suits against a number of star-route contractors. In his absence, his chief clerk informs me that it will be ten days before they will be able to turn the cases over to me for my examination.

Colonel Ingersoll requested yesterday that, before suits were brought against some of the contractors whom he represents, I should inform him of the amount which was demanded. While he did not say so in terms, I inferred that, perhaps, the Salisburys and others contemplated paying the amount which the Government claimed or will claim is due from them. I told Colonel Ingersoll that he and his clients should have an opportunity to settle without suit, if they desired to do so, before I addressed you again upon the subject.

If it shall appear from the papers submitted to me by the Second Assistant Postmaster-General, that any star-route contractors have obtained money from the Department by fraud, I shall address a communication to you, requesting that suit be brought against such persons.

Respectfully yours,

W. Q. GRESHAM,
Postmaster-General.

HON. BENJAMIN HARRIS BREWSTER,
Attorney-General, Washington, D. C.

[*Extract from letter of Attorney-General to George Bliss, dated November 28, 1883, relating to Dorsey civil suit.*]

You spoke to me about that Dorsey matter. I have seen Mr. Simons, and with this I send you the fruit of that interview, and I authorize you to act in the premises according to your best professional judgment.

Extract from letter of George Bliss to Attorney-General, dated November 30, 1883, in reply to above letter.

I will to-night look over the Dorsey papers you send.

Mr. Bliss to Mr. Brewster.

160 BROADWAY, NEW YORK, December 1, 1883.

SIR: I have yours of 29th, inclosing papers in the Dorsey case. On examination I find them wholly insufficient. If this is the result of the summer's work of the Post-Office Department it is a disappointment. Especially do the papers offer no evidence whatever against S. W. Dorsey, as they do not show what payments were made to him or his order. I think the best way will be for me, if I can get a day early next week, to go to the Post-Office Department and work out what I want. I find much of it in the report of the star-route trial but cannot be sure that I have it all correctly.

I assume the papers are with me only for use as against S. W. Dorsey.

Your obedient servant,

GEORGE BLISS.

HON. BENJ. HARRIS BREWSTER,
Attorney-General.

Mr. Bliss to Mr. Brewster.

160 BROADWAY, NEW YORK, *December 21, 1883.*

DEAR SIR: Referring to the matter of the civil suits in the star-route cases, permit me to say that as to the cases transmitted to me, it seems rather like a waste of money to commence suits against the actual contractors, John W. Dorsey, John R. Miner, and the estate of John M. Peck. All are understood to be impecunious, though it is possible John W. Dorsey has some property. But the suits would involve considerable expense and labor; and unless there are considerations of public policy which require suits against persons who would "beat in the execution" I would advise that such suits be not brought.

As to Stephen W. Dorsey and Henry M. Vaile, who, as subcontractors and otherwise, received a good deal of money fraudulently taken from the Treasury, the condition of things is different. They are understood to be still responsible. If jurisdiction can be obtained of them in a forum where the Government can get fair treatment I should advise proceedings, and, under your letter, propose to take them against S. W. Dorsey. Indeed I should have done so before this, but some arrangements that I had for procuring jurisdiction have been interfered with, though I still expect to obtain it. As to Vaile, you have never said to me whether you wished me to proceed against him.

This reference to Vaile leads me to make a general suggestion as to *all* the civil suits. I learn that the Post-Office Department has forwarded you statements with detailed reports as to frauds committed by other contractors, who are themselves responsible or were the mere "dummies" of responsible persons. As I had occasion to investigate these cases, or many of them, when I tried to secure indictments against the parties, I feel confident that with proper care a very considerable sum can be realized in these cases. But it will require some diplomacy, some knowledge of the peculiar law applicable, and of Post-Office matters. I am clear that it would be wise to place all these cases in the hands of the same person. As you will give me credit for not speaking from a personal point of view, and as in the long run I do not believe any result that may follow from the suggestion would benefit me, I have determined to give expression to an idea I have thought of a good deal.

My idea is that it would conduce at once to the efficient and economical management of these cases and to the collection of the money if some smart, bright, active young lawyer were employed on a small annual salary—small compared with what would be paid to special counsel ordinarily—and let him do the work in these cases, being directed by some one familiar with the law and the practice. My idea of the man is some one who, having been admitted as a lawyer has little or no business, no experience in these cases, or in any similar cases, but who could learn and be directed. Such a man could be got for a reasonable sum and could then be directed, be under the supervision of an older and more experienced man, who could in such event have to be paid much less than if he was the special counsel in charge of all the details of the cases.

I only describe *such* a young man because he could be got cheaply. Of course one of more business, more experience than I have pictured would in some respects be better, but he would cost more. The selection of this man should be made with a good deal of care, as by no means every bright man, every man with social or political support behind him, would "fill the bill." Indeed I incline to think one with no such influence is the better man.

As for the counsel, if you should choose to employ me, I should not object, yet I do not seek the employment, and you will quite likely find some one who would do as well and who has not the standing in the profession which justifies, if not requires, the charges I should in such case make. In such case I shall have no feeling, no regrets. All that I want is that an administration of the Department which has been compelled to spend so much money without the *direct* benefit hoped for may succeed in collecting the large sums which I fully believe can be collected. Perhaps you have already made your arrangements. If so you will excuse my suggestions.

Your obedient servant,

GEORGE BLISS.

Hon. BENJ. HARRIS BREWSTER,
Attorney-General.

[Extract from letter of George Bliss to Attorney-General.]

JANUARY 9, 1884.

As to the civil suits. They were placed in my hands by Postmaster-General James before you became Attorney-General. You approved it in writing both before and after you became Attorney-General. Subsequently you have treated the matter as

undecided where they should go, and then sent the Dorsey cases to me (though you have never yet answered as to whether this covered Vaile). Of course in this matter you have acted with my entire concurrence, but I wish to remind you of the record.

* * * * *

In the civil suits I failed in my scheme to get jurisdiction of Dorsey here because Bosler died. I do not, however, give it up absolutely.

Extract from letter of Attorney-General to George Bliss.

JANUARY 10, 1884.

As to the civil suits. As I now remember it, you were requested to take charge of them by Mr. James, and so you told me. In fact, all I learned about what had been done prior to my coming into the office I learned from you, and I had to depend entirely upon what you stated, and I have no doubt you stated what was correct. I relied upon you because I confided in you and respected you. Of the civil suits since then against these parties, the only one you have had charge of thus far has been the suit against Dorsey, and that was sent to you to New York in consequence of your correspondence with me requesting that it should be, pointing out how you might be able to secure the money.

Mr. Bliss to Mr. Brewster.

NEW YORK, April 19, 1884.

SIR: I inclose you Treasury statements of account against Dorsey, Peck, Miner, and Vaile, forwarded to me by you at a time when you desired me to take charge of civil suits. Now that you are pursuing the policy of letting every one off, while pretending to pursue them, they may be of use to you. They are of none to me.

Your obedient servant,

GEORGE BLISS.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

Mr. Gresham to Mr. Brewster.

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., February 21, 1884.

SIR: I have the honor to acknowledge the receipt of your letter of the 19th instant, in which you refer to the copy of Mr. Bliss's letter to you of the 16th instant.

Of course I am not expected to bring suits against Mr. Dorsey or others.

I do not see what I can do in the way of causing suits to be commenced in Indiana, Ohio, or Illinois, and getting service upon Mr. Dorsey as he passes through those States.

Very respectfully, yours,

W. Q. GRESHAM,
Postmaster-General.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

[Omitted from letter to George Bliss, signed Attorney-General, May 12, 1883. Reported to Senate See Senate Ex. Doc. 156, Forty-eighth Congress, first session.]

"I am doing my duty steadily in my Department, and have no regard for outside criticisms of either interested or ignorant people, and I do not need to be spurred nor twitted as if I were negligent, which I am not. I bear the burdens of the Department and its heavy labors with as much practical active industry as any other public officer, so your clients must have some patience and some respect for me.

[Omitted from letter to George Bliss, signed Attorney-General, November 28, 1883. Reported to Senate. See Senate Ex. Doc. 156, Forty-eighth Congress, first session.]

"It is a very unpleasant thing to receive such letters, and from you; for if there is a gentleman that I have been associated with since I have been in this office that I have been anxious to accommodate and satisfy it is you, and I must again remind you you have said so, and I felt and believed until last spring that I never had done or said a thing that was unpleasant to you."

"Now, in the first place, you must permit me to have some little authority in my own Department; I have not only legal rights, but I have some personal sentiment and feeling in these things, which I am sure you will not willing interfere with."

"However, now permit me to say to you that I wish none of this had passed between us. There has been no occasion for it, and it has caused me the utmost pain to talk to you in this diffuse way in reply to your very diffuse and dissatisfied note. I have dictated this letter just as if I were talking to you, and dictated it with a hesitating sense of unpleasantness that I should be called upon to do it. There is nothing that you can ask, that you yourself will say after deliberate reflection you ought of right to have or of courtesy to look for, that I would not cheerfully accord to you. I do wish most heartily to keep alive with you pleasant, happy associations. They began that way; pray let them continue so."

[Omitted from letter dated January 18, 1884, to the Attorney-General, signed George Bliss. Reported to Senate. See Senate Ex. Doc. 156, Forty-eighth Congress, first session.]

"A member of Mr. Springer's committee told me to-day that the witnesses from the Department were indulging in opinions, inferences, &c., instead of merely stating facts, and he thought Mr. Springer was encouraging it and not for good purposes."

[Omitted from letter to George Bliss, signed Attorney-General, January 19, 1884. Reported to Senate. See Senate Ex. Doc. 156, Forty-eighth Congress, first session.]

"I have only asked for an explanation as an act of official duty, and never thought it would give offense.

"By way of note in your letter you report to me some information, and say you had learned from a member of the committee now examining into the affairs of the Department of Justice, that the witnesses were speaking at random and giving opinions and inferences, and that Mr. Springer permitted and encouraged it for a political purpose. With that I have nothing to do. I have not instructed or advised with a witness that went before that committee and I do not know when any one of them went, except Mr. Cameron; neither will I instruct or advise with them. The committee must control their witnesses. If there is anything said that is untrue and I see it, I will disprove it, and if they tell the truth and superadd inferences and opinions, I cannot prevent that, nor do I mean to prevent it, let Mr. Springer have whatever purpose he may in permitting it or in inviting it, as you say he has.

"I have not spoken to any member of the committee. I have not asked anybody to speak to them or any one of them, nor will I. I have no occasion to do so, and if I had need to seek their favor, I ought to leave this office."

Mr. Brewster to Mr. Merrick.

(United States vs. Brady et al.)

DEPARTMENT OF JUSTICE,
Washington, April 24, 1883.

MY DEAR SIR: After your conference with me in the above case as to the order of speaking I have considered the subject. It has been my intention from the beginning of this present trial to take part in the argument after the case was closed. I could not be present at the trial, for my whole time was occupied without intermission with official duties such as no one could be deputed to undertake.

To keep watch over the proceedings and instruct myself in the details of the evidence that was given, I have steadily, day by day, followed the progress of the case and instructed myself in all that passed. I learn from you and from the reported pro-

ceedings that there is some hesitation in the mind of the judge as to the order in which counsel may be directed to speak. The arrangement adopted in the former trial, you inform me, has been set aside, it having been declined. I had believed and hoped, till you informed me of this change, that the course pursued there would be adhered to in this instance, and relying upon that I had intended to have appeared in court to conclude this case, as I did before. In the last case, your speech having been made, you were followed by two or more of the defendants' counsel, and when they had ended I concluded the case for the prosecution, responding to whatever those who immediately preceded me said, and expressing such general views as were called for upon the facts and the law. It was my purpose in the last trial, and it is my will and wish now, to show a determination to have these cases thoroughly tried, and to express in person upon behalf of the Government the resolution to pursue these accusations by lawful means to their lawful end, and thus convey a conviction to the public mind that there was a fixed intention to follow these or any other accused men, no matter how high their past position, and expose and punish their frauds by due course of law.

In this trial the judge himself first suggested, in departing from the former arrangement, that the defense might close, and then be followed by two speeches upon behalf of the Government, one of them to be delivered by yourself and the other by myself. If the judge will do this I would be satisfied. To me it appears to be the proper course in a case like this, complicated as it is, wherein so many defendants are involved, represented by so many different counsel, all of whom being heard in a body before the closing speech of the prosecution outweigh in numbers and effect that single speech in conclusion made for the Government. This order is the one that I would suggest, and did suggest at the former trial before the order then adopted was thought of or accepted. All lawyers know the order of speaking is wholly within the discretion of the court, and I desire you to urge in this case upon the court the fitness and propriety of this plan.

The recorded authorities that I know of show departures in cases like these from the ordinary courses of litigation, and there are many no doubt, very many more, wherein like departures have been made in the exercise of this judicial discretion to answer the ends of justice that cannot be cited, as such orders are generally made at trial where they are not the subject of record. Let me call your attention to Chase's trial, to the Queen's trial, to O'Connell's case. Those you possess and will use. The text-books contain but one principle upon this subject, an undisputed principle, and that is the discretion is exclusively with the court to be exercised according to the circumstances.

In a note like this I do not propose to enlarge in an argumentative way upon the necessities or proprieties of this case demanding the order that two may conclude for the prosecution; that you will do when the question is discussed and submitted to the judge; but I again affirm to you it is my conviction that in this case of all cases that order is the proper one. If the judge determines to rule that there will be but one counsel in conclusion for the prosecution, and declines to adopt the former order of speaking, then of necessity I am excluded, for I think the case requires the knowledge which you have obtained in its prosecution shall be used and expounded by you fully to the jury. It is not only due to the case that you must be heard, but it is due to you; you have borne the brunt of this prolonged and bitter contention, and it is your right, as a point of personal respect, that you shall be heard. I cannot and will not supersede you.

If, however, the judge concludes to readopt the old order, then you will appear as you did, and I will conclude as before. If the judge decides that you may speak in conclusion and I may speak in conclusion, and the counsel for the defendants then refuse to be heard, as one of them has threatened, and they persist in that determination, then I desire to withdraw, for I would not have this or any other case of its magnitude and consequence sent to a jury without giving the accused the benefit of every word that could be said in their behalf. I would not have a verdict tarnished with such an unusual and irregular departure as that which they threatened, although the defendants would deservedly draw down on themselves the consequences of such contumacious refusal to speak, yet it would be better for the sake of the orderly administration of justice that the Government would waive a right adjudged to it by the court rather than appear to obtain that right at the expense of the defendants, who profess to believe that they were wronged and prejudiced by its enforcement.

With great respect, your obedient servant,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

RICHARD T. MERRICK, Esq.,
*Special Assistant United States Attorney-General
in the Star-Route Trial, Washington.*

Mr. Bliss to Mr. Brewster.

(Personal.)

DECEMBER 4, 1883.

MY DEAR SIR: I hear to-day in a way that leads me to believe there is *something* in it that an attempt is to be made to *frighten* leniency towards Spencer through some letter Gibson has written for him to the President and which Mrs. S. has in charge. The idea suggested is to operate through Chandler. The story goes that C. is greatly annoyed at Spencer and is not likely to help, which I am sure would be so.

Of course the President isn't going to be affected a particle. But it may be that there will be some attempt to affect Judge Wylie.

Yours, truly,

GEORGE BLISS.

Hon. B. H. BREWSTER.

Memorandum of a conversation between George Bliss and Brewster Cameron.

A few days after my return from Montgomery, Ala., about the middle of May, 1883, George Bliss came to my office in the Department of Justice. He was then engaged upon the second trial of the case against Dorsey and Brady. He said he was busy but that he came to see me about Paul Strobach, the United States marshal for Alabama, who had been arrested a few days before the date of this conversation.

"Very well," I said. Mr. Bliss then told me it was a great mistake to have arrested Strobach. I replied that he must be misinformed, for the evidence of Strobach's guilt was conclusive. Mr. Bliss said it was not a question of guilt, it was a question of administrative policy.

I told Mr. Bliss that was a matter with which I had nothing whatever to do. I said if a question of policy intervenes it is clearly the Attorney-General's duty and not mine to suspend the administration of the law. It was my duty to obey instructions, and the Attorney-General had directed me to cause Strobach to be arrested if the evidence in the opinion of the United States attorney was such as to warrant his conviction.

Mr. Bliss said I was very useful to the Government, and by my industry and my fidelity to the Attorney-General I had made my services indispensable to his office. He said I had the confidence of the Attorney-General, and that I could control these prosecutions without any difficulty whatever. Mr. Bliss then intimated very plainly that I did practically control them, and was responsible for what had been done.

I told Mr. Bliss I was surprised to hear him speak in that way, for he knew personally that I consulted the Attorney-General as to almost every detail of the business of my office. I reminded Mr. Bliss that the Attorney-General had frequently referred me to him for advice or consultation about comparatively unimportant matters. For my own protection if nothing else I said I had made it a rule to confer fully with the Attorney-General before criminal proceedings were instituted against court officers.

Mr. Bliss said substantially that these consultations were a farce, because the Attorney-General had not the time or the patience to listen to the details.

I told Mr. Bliss it was very true that the Attorney-General did not have the time during the business hours of the day, but that he usually returned to the office about 8 o'clock p. m. after dinner, and staid till 11 and 12 o'clock at night and sometimes later, and that I then carefully submitted to him the evidence in these cases. I also told Colonel Bliss that I was especially careful to advise the Attorney-General of the social standing and political influence of every court officer accused of a crime. The Attorney-General, I said, had never failed to listen with strict attention to the evidence, inquiring into its minutest details; but he had never hesitated, and I was very sure he never would hesitate, to direct the prosecution of a man whose guilt was clear because he was an important political factor.

Mr. Bliss then said these prosecutions had to stop, and the sooner it was understood the better it would be for all parties concerned, and myself particularly.

I asked Mr. Bliss whom he referred to besides Strobach in speaking of "these prosecutions," and he said he alluded to Marshal Brown, of Arkansas.

"Why, Mr. Bliss," I said, "Brown has been convicted, and is in jail now awaiting transportation to the penitentiary."

"I don't care whether he has been convicted or not; the fact is he should not have been arrested. When a man is appointed to a public office all offenses committed by him before the date of that appointment are condoned."

I told Mr. Bliss that the Attorney-General, in my opinion, would never subscribe to that doctrine. I said I was very sure he would not consent to remain in office one minute upon any such terms.

Mr. Bliss did not make any answer to this, but said that he had heard several prom-

inent New Yorkers say that these prosecutions looked like as if the Attorney-General was trying to put the President in a hole.

I told Mr. Bliss that he knew this was not true, and that it was his duty to correct such false impressions, and to say that the Attorney-General prosecuted these marshals solely as an act of duty.

Mr. Bliss said he knew that the Attorney-General was a friend of the President, but that the President's friends generally did not know it and would not believe it so long as these prosecutions continued. "You may not know it," said Mr. Bliss, "but you are held answerable for these arrests, and I may as well say to you frankly, if this thing goes any further you will be removed."

"I would like to know who will remove me, Mr. Bliss," I said; "certainly the Attorney-General will not, for he has carefully examined the evidence and personally directed proceedings to be instituted in each case. I have nothing to do with these cases further than faithfully to report the facts."

Mr. Bliss said that sort of talk was all nonsense; that I could shape these investigations so as to insure a different result; that it was very easy for me, finally, to present the facts in such a manner as to make it appear to the Attorney-General that a criminal prosecution was not advisable; and Mr. Bliss added that if I was a friend of the Attorney-General, I had better observe these suggestions.

I told Mr. Bliss I had too much respect for the Attorney-General to deceive him in that way or any other. I said, moreover, the plan he proposed would fail, for the Attorney-General examined the papers with too much care to be misled, unless I should suppress the evidence. Mr. Bliss said, "there is a good deal of irritation over there" (pointing to the White House), and that something had to be done or there would be trouble; that there could be no objection to prosecuting persons who were appointed by Hayes or Garfield, and who were detected in rendering false accounts, but if any more of the President's appointees were arrested I would certainly be removed, or if the Attorney-General declined to dismiss me he would be removed; and Mr. Bliss then repeated what he had said before about an appointment condoning past offenses.

I told Mr. Bliss that he could not make me believe the President wanted these men retained in office. I said further that I had carefully observed the President's course, and there was nothing in it to warrant the language of Mr. Bliss.

Mr. Bliss replied that the President was all right, and that he did not speak by the President's authority, but there were persons high in authority who had his ear, and who had determined to put a stop to these prosecutions in one of two ways: first, by my dismissal, or, failing in that, secondly, to remove the Attorney-General.

Mr. Bliss said substantially that he spoke to me upon this subject, because he could not speak to the Attorney-General, who would resent as an intrusion the interference from any one not connected with the cases, but he said something must be done and done at once to prevent any more arrests, for there was already a sentiment of hostility to the Attorney-General that had impaired his usefulness as a member of the Cabinet.

"Of course he has the hostility of the star-route thieves and other law-breakers," I said.

"Oh, no," said Mr. Bliss, "I do not refer to that class. There are responsible people, among others, two members of the Cabinet."

"I do not believe there are two," I said.

Mr. Bliss then reassured me that there were two members of the Cabinet who were hostile to the Attorney-General, and he said further that the Attorney-General was of no use to the President as an adviser, for the reason that he never expressed an opinion of his own, but always concurred in the views of the President.

I asked Mr. Bliss if he spoke by the President's authority, and he said, "No, no; don't misunderstand me. I have no authority to speak for the President," but Mr. Bliss went on to say that he knew what he was talking about, and if I wanted to retain my position or see the Attorney-General retain his, that I had better not cause the arrest of any more marshals.

I told Mr. Bliss I would speak to the Attorney-General about it.

He said I must not do that, for he had spoken to me in confidence.

As soon as I saw the Attorney-General I repeated to him the whole of Mr. Bliss's conversation. He condemned the conduct of Mr. Bliss for attempting to interfere with the administration of the law. I expected to see Mr. Bliss dismissed from the service of the Government, but the Attorney-General said, upon reflection, that the removal of Mr. Bliss at that time would be misunderstood and would be disastrous to the star-route cases. The next time I saw Mr. Bliss in my my office I told him I had repeated his remarks to the Attorney-General.

Mr. Bliss turned pale and became very much agitated. He said I had been guilty of a wanton breach of confidence, for he had told me that his conversation was private. He said I might have refused to receive it, but I was in honor bound not to repeat it.

I told Mr. Bliss he had not said his conversation was in confidence till it was over. If he had made secrecy a condition to anything he had to say about the Attorney-

General I would not have listened to a syllable. I told Mr. Bliss that every sense of honor required me to advise the Attorney-General of what he had said, for if he was speaking advisedly, as he pretended to be, and the Attorney-General desired to remain in office, he would be obliged to accept my resignation; and I further informed Mr. Bliss that I was too good a friend of the Attorney-General to complicate him for my own personal advantage, and that I had therefore tendered him my resignation as general agent of the Department of Justice, to take effect whenever he might think it advisable to accept the same.

Mr. Bliss said he had spoken to me in strictest confidence and as a friend, for my own good, so as to temper my zeal.

I asked Mr. Bliss, if it was not his purpose to deter me from doing my duty, what was his object in repeating to Mr. Ker substantially what he had said to me about my removal from office, &c., if these investigations continued to result in prosecutions.

Mr. Bliss then wrote a letter to the Attorney-General in which he said that he was surprised and humiliated beyond expression to learn that I had repeated to him, &c.

The Attorney-General replied that when accusations were preferred against marshals or deputies and made good by sufficient proof that he would follow, expose, and punish them; and wherever the law laid its hands on a man as a culprit and a wrongdoer against the Government, and it came within his immediate jurisdiction and direct knowledge, that he would follow him according to law; and when he could not do that without molestation or hinderance, he wrote Mr. Bliss that he would leave his place.

Mr. Bliss subsequently came to my office and said he had seen the Attorney-General. He was greatly alarmed lest the Attorney-General should report the matter to the President. Mr. Bliss then spoke in high terms of the Attorney-General and of the President's respect for him. Mr. Bliss complained to me that I had given a coloring to his language which conveyed an impression to the mind of the Attorney-General wholly different from what he wished to convey.

I repeated to Mr. Bliss what he had said, especially, about an appointment condoning all past offenses.

Mr. Bliss said he still insisted that that was a correct theory, and he did not complain about that, but that I was either very stupid or perverse or I never would have repeated to the Attorney-General, in the bungling way I must have done to have made all this trouble, what he (Bliss) said about the possible removal of the Attorney-General.

I intimated to Mr. Bliss, if he would have any trouble, that he had brought it upon himself by using the President's name without authority.

Subsequently Mr. Bliss told Mr. Ker substantially that he would punish me by interfering with the appropriation for the examination of accounts out of which the examiners are paid.

BREWSTER CAMERON.

Mr. Bliss to Mr. Brewster.

(Personal.)

MONDAY, A. M. (Received June 6, 1883.)

DEAR SIR: I learn to my surprise and mortification that Mr. Cameron has repeated to you a conversation I had with him, giving to it, I judge, a coloring and importance neither it nor the facts justify. I did not intend that you should be bothered about the matter. As it has come to your ears, I will take an early opportunity to call and explain the whole thing to you that it may cease to worry you, if it has had that effect.

Your obedient servant,

GEORGE BLISS.

HON. BENJ. HARRIS BREWSTER.

Mr. Brewster to Mr. Bliss.

DEPARTMENT OF JUSTICE,
Washington, June 7, 1883.

MY DEAR SIR: I have spoken to no one upon the subject of what I understood you had said of me but to Mr. Chandler. I said in a very general way only that you had spoken harshly of me, even to him, and I did not tell him that it was Mr. Cameron who repeated it to me. I was hurt, for if I had done anything to annoy or interfere

with you I thought it was your place to come to me directly. I am certain I never did anything to annoy you or interfere with you, but on the contrary the last I heard of what you had said of me was most encouraging words of applause and warm words of thankfulness; that I had ever been cordial, friendly, and encouraging to you—in fact, to that degree that you hesitated to come to me, as I always assented to what you said, and you feared to ask too much. I thought if there was any one here with whom I had become acquainted since I had been connected with this office, or immediately before it, whose affectionate friendship I enjoyed, it was yours, and I am sure I never had a thought that was hostile or unfriendly to you.

In your letter you say that Mr. Cameron, you judge, has given a coloring and importance to the matter. Of course, you must infer that, for I entered into no particulars and gave no details to Mr. Chandler. Mr. Cameron is not hostile to you; that I well know, and he did not repeat what he said as an act of hostility or in a spirit of hostility. I never heard him say anything of you except in a spirit of respectful regard, and as a gentleman who was his senior, in whom he had confidence and for whom he had respect. He did report to me, as it was his duty to do, in a straightforward, simple, calm way the conversation you had with him, which I said, and still say, you ought to have had with me, and not with my subordinate or any other person. I was hurt. I will not go into the details of it now, for most of it I have forgotten, and all of it I want to forget. I wish to keep alive friendly relations with you. We began in cordiality, and it shall be no fault of mine if you are not cordial with me to the end.

You know very well the anxieties and vexations that have surrounded me. Part of them have been connected with you in this terrible prosecution that you have had in charge, and which has attracted on me as a focal point the open, avowed, aggressive hostility of the worst men in the United States of America, scattered over its surface from Maine to the remotest Territory—the jobbers and public plunderers and conspiring thieves, and their hatred and hostility is my public compliment. I despise them, and if I can I will punish them, no matter where they are, no matter what they have been; and when accusations are preferred against marshals or deputies, and made good by sufficient proof, I will follow, expose, and punish them, despising them and their vulgar threats; and wherever the law lays its hand upon a man as a culprit and a wrongdoer against the Government, and it comes within my immediate jurisdiction and my direct knowledge, I will follow him according to law, and when I cannot do that without molestation or hinderance I will leave my place. I took it up with honor and I will lay it down with honor as clean as I took it.

If these men, any of them, who rail at me and threaten me had any claim in the remotest way to the status of gentlemen, by association with gentlemen, I would say to them: Gentlemen never threaten, and gentlemen never regard threats; but, as they are a despicable set of low-bred scoundrels, I can only say I despise them.

Now, again, I say I have no desire to have other than cordial, friendly feelings to you. If it is your wish to speak with me about it I will suggest that you first see Mr. Cameron, and learn from him what he did say to me, and then come with him to me and we can talk together in the same spirit of friendship and good feeling that we began in, and as I supposed had maintained to this time.

I am truly, &c.,

BENJAMIN HARRIS BREWSTER.

Col. GEORGE BLISS,
Washington, D. C.

Mr. Bliss to Mr. Brewster.

NEW YORK, *November 30, 1883.*

MY DEAR SIR: * * * For some months I have felt that while you showed me every personal kindness, the atmosphere, so to speak, of the Department of Justice was not so kindly, so confidential to me as it was. I traced various unkind remarks—some of them almost slurs—to Mr. Cameron. They dated from about the time when, with the kindest feeling to him, near the time of the Strobach prosecution, I urged upon him that there had been two or three cases in which immediately after the President had appointed marshals or district attorneys the Department of Justice had instituted prosecutions for antecedent matters, and told him that while I believed the persons prosecuted were rascals, I felt that the prosecutions were either too soon or too late, and that no administration could or would permit many repetitions of such a course. I urged tact, judgment, discretion in such cases. Mr. Cameron obviously took what I said not so kindly as it was meant. * * *

Yours, very truly,

GEORGE BLISS.

Hon. BENJAMIN HARRIS BREWSTER.

Extract from letter of George Bliss to Attorney-General, dated New York, November 30, 1883.

I have had or thought I had reason to complain of Mr. Cameron, but *have not done so*, and to you have taken pains to speak, as you remind me, of his many good qualities. I *do* believe him a *very* valuable man to you and to the Government, and think it would be a sad day for both should he leave. But frankly, I think he is, as the saying is, "getting too big for his boots." He has passed beyond the stage of taking counsel. He does and induces you to do things which while abstractly right are under the circumstances not wise to do at all, or not wise to do in the way he does them. You *must* of course rely upon him, *must* take his hasty statements of the reasons for this or that letter. He *must* be your sieve. In that capacity he needs some tact and discretion. He has become self-reliant, self-asserting. He subjects you and the Department to criticism; gives cause for enemies to chuckle and make capital against you and the administration. Understand me. Even if this must continue, as a condition of his continuance with you, I should say he is so valuable that you must keep him *cum oneris*, but I *do* wish you could tone these things down; not on my account at all, not on your account solely, but on account of the administration.

Mr. Brewster to Mr. Bliss.

DEPARTMENT OF JUSTICE,
Washington, December 1, 1883.

MY DEAR MR. BLISS: * * * By the by, as to what you say in your letter to me about Mr. Cameron's having people indicted who are recently appointed by the Government, I do not subscribe to what you say about that, nor will the moral sense of the world at large. It would be straining political necessity pretty far to say that it is not the best thing an administration could do to expose and punish its own delinquent appointees. The inspectors who went out to pursue these people have hitherto been negligent of their duty. Hundreds of thousands of dollars have been stolen from the public Treasury by these marshals, and their corrupt lives and vicious practices have brought discredit upon the Republican party, and it is the shame of their misconduct, scattered throughout the country, that has created this sense of hostile opposition in the way of independents within our own ranks. Better that we should perish and expose them than our enemies do so; better that we should get rid of these *fungi*, that are a stench in the nostrils of the Republican community in which they live and over whom they exercise official authority.

They were strangers to Mr. Cameron; they were strangers to me. There is no personality in it; that must be plain to you and to anybody. They were not hunted up because they had been appointees of the party. They were not hunted up at all. The examiners who went out to do their duty went out to do it without knowing who he was, without knowing whether a man had been appointed to-day or a year ago, and they treated him according as his accounts appeared, having no knowledge of him, and no purpose except the truth. The result was that one of them went to the penitentiary, where he ought to be, and his punishment was an honor and a credit to the administration, and the result was that the other was indicted, when he ought to have been; for although acquitted, I must tell you here that, impressed with the complaints that were made that undue severity had been exercised toward Mr. Strobach, I directed the transcript of the trial, and all the evidence, and the judge's charge, and everything connected with that case, to be laid before every assistant attorney-general in the Department of Justice, including the Solicitor-General, and had the judgment of each separately, neither one of them knowing that the other had passed upon it; and the judgment of all thus taken was that Paul Strobach ought to have been convicted.

I did this without expressing a word of my own opinion. In fact, I had no opinion, because *I did not read the testimony*, being resolved to be impartial to the last minute, and being resolved that the investigation thus made by me should be made in an honest spirit and in an impartial spirit, so that if it turned out that the man had been persecuted, and his acquittal was a just one, in the opinion of the majority of the gentlemen, I would have dealt with Mr. Cameron upon the spot, if there had been any evidence of his complicity in such severity, and I would have dismissed the examiner who occasioned the prosecutions. And now upon the record of the Department lie these opinions, these individual opinions, these unbiased opinions, of every one of these gentlemen, from the Solicitor-General down, condemning that verdict—a verdict obtained (as I have been informed by a great deal of honest testimony it was) by the skillful manner in which Mr. Strobach prepared his own jury.

This I tell you for your satisfaction, for I know very well that it will give you pleasure to know that all of this complaint which these evil-disposed men have instigated is, in the judgment of impartial men, not well founded. If they are entitled to the benefit of doubts, I am very sure that the Department of Justice, and myself particularly, acting from no personal motive, and from no personal knowledge of these men, and only governed by a desire to do a high public duty in an honest way, that I am entitled to the benefit of an honest doubt, too, both as to the integrity of my purpose, and the regularity of my action, and the honest policy of it, too.

Very respectfully, your friend,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

Col. GEORGE BLISS,
160 Broadway, New York City.

Mr. Brewster to Mr. Springer.

DEPARTMENT OF JUSTICE,
Washington, July 11, 1884.

SIR: I have the honor to transmit a copy of an affidavit of Frederick C. Shaw, a member of the panel from which the first star-route jury was drawn, and copies of two affidavits of James A. Nelson, who swear that they were employed in the interest of the defense to corrupt the jury in the star-route cases. These sworn statements were obtained in the investigation which has lately been made into the subject under the supervision of Mr. Woodward, of the Post Office Department.

It was intended to have this matter brought before the committee in the form of oral testimony, with other evidence which would have been developed in the course of the personal examination of these witnesses, but having learned with regret that the committee, owing to the press of other things, and the time being limited, were unable to give it a hearing, though desiring the evidence and having summoned the witnesses, I forward the above-mentioned affidavits for the information of the committee, and with the request that the same may appear in your record to be considered in connection with the result of the star-route trials.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

Hon. WILLIAM M. SPRINGER,
*Chairman Committee Expenditures,
Department of Justice, House of Representatives.*

The attempt to bribe jurors.

AFFIDAVITS OF J. A. NELSON.

DISTRICT OF COLUMBIA, ss:

I, James A. Nelson, residing at No. 20 Covington street, between Q and R and Ninth and Tenth streets, northwest, do depose and say as follows: About the time that I was employed by the defense in the star-route cases, namely, the first Monday in December, 1882, I was engaged by Mr. A. B. Williams to look out and watch Government counsel, Government spotters, and the members of the star-route jury. My instructions from Mr. Williams was to report to him daily whatever I could find out about the parties named, and such other general information as might be of use to the defendants in the star-route cases, and particularly to watch the jury, see what connections they made at morning, noon, and night. I was continuously employed and reported to Mr. A. B. Williams on these matters from the time named until the Saturday after the verdict in the second trial. During the second trial of the star-route cases, Crossman, who was the agent or partner of John H. Crane, foreman of the jury, was daily around the court-house, and I saw him frequently in communication with Mr. John H. Crane aforesaid and the said A. B. Williams. Said Crossman was constantly around the corner of the court-house east and north of the city hall, where the jury were locked up during the time the jury were in their room, after they were charged by the judge, and I saw the said Crane send or give signals to said Crossman from the east side of the jury-room. The window Crane had was the second one from the northeast corner of the building. I saw said Crane signal from said second window to said Crossman and to A. B. Williams, from said window, and saw both of those gentlemen respond that they understood what he meant. Crane made nine motions with a fan he had in his right hand and by three taps on the window with his

left hand. The last signal I saw Crane make, which was to said Crossman, was after the jury had agreed, and was done by Mr. Crane by his bringing his hands together near the center of the window and pulling them away from each other towards the outer extremities of the window, which meant that all was right—that it was a clean thing—the jury had agreed to acquit the defendants. This was the understanding between us all who were working for the defense. I learned of these signals from Ed. Taylor, before they were given.

JAMES A. NELSON.

Sworn and subscribed to before me this 7th day of March, A. D. 1884.

[SEAL.]

WARREN C. STONE,
Notary Public.

DISTRICT OF COLUMBIA, ss :

I, James A. Nelson, on oath, do depose and say that soon after the termination of the second star-route trial, or about the time that Stephen W. Dorsey left the city of Washington, D. C., for the West, I think in the early part of August, I had a conversation with one Clarence Shields, a juror on the second trial. In said conversation said Shields stated to me that he had been treated badly by said Dorsey; that he (Dorsey) had left the city without making any arrangements to carry out the agreement made with him (Shields), and that he (Shields) understood that the white men on the panel with him in the trial of said cause had been treated differently. Shields further said that he thought it more than likely that Dorsey had fixed matters, but that the parties who had charge of the matter for said Dorsey had failed to carry out his instructions, and that he (Shields) intended to see Dorsey personally when he (Dorsey) returned to Washington, and have a full understanding about it. I had several conversations with Shields subsequently of about the same purport as just narrated, and in one conversation said Shields gave me to understand that something had been done for him, but that the agreement had not been fully carried out, and that it would have to be done when Dorsey came to the city. When said Dorsey came to Washington, in December or January last, I had a talk with Shields, and he told me at that time that he was on his way to Welcker's restaurant to see said Dorsey, and that he (Dorsey) had to do something for him or to get a position for his friends. I am also informed by a reliable person, whose affidavit can be obtained, that he saw Charles Jones, in company with a brother of Jackson Howard (another juror on said second trial), go to the house of said Jackson Howard on the night after said Howard was accepted as a juror in the star-route case, and that the said Charles Jones was at that time in the employment of the star-route defendants and received immediate instructions from A. B. Williams, one of Dorsey's lawyers.

While I was employed by the said A. B. Williams he paid me a compensation of \$10 per week, settling with me at that rate in full, until the end of the second star-route trial. I had been previously employed by the said Stephen W. Dorsey in matters relating to the star-route trials, on account of which employment there was a balance due me of \$28. When said Dorsey was in Washington, in January last, I sent him a statement of my account with him, showing said balance, and he (Dorsey) responded by sending me his check for said amount, and said check was payable at the First National Bank of Denver, Colo. This account was for services rendered Dorsey after the discharge of the jury in the first star-route trial, and under the personal direction of A. C. Richards, in the interest of the said Stephen W. Dorsey, on account of matters growing out of the first star-route trial.

JAMES A. NELSON.

Sworn to and subscribed before me this 18th day of March, A. D. 1881.

[SEAL.]

WARREN C. STONE,
Notary Public.

AFFIDAVIT OF F. C. SHAW.

DISTRICT OF COLUMBIA, ss :

I, Frederick C. Shaw, being duly sworn, doth depose and say : While serving as a juror at the March term of the criminal court for the District of Columbia (1882) I received the letter marked A, bearing date April 26, 1882, from one Howard French (a son of the late Sergeant-at-arms, United States Senate) worded as follows :

DEPARTMENT OF THE INTERIOR, CENSUS OFFICE,
Washington, D. C., April 26, 1882.

DEAR SIR : If you are down this way to-morrow please let me see you. I may be out in the forenoon, but will surely be in between 3 and 4.

Yours, &c.,

HOWARD FRENCH.

Mr. ———.

On the following day, between the hours named, I called at the Census Office, corner of Thirteenth street and Pennsylvania avenue, and asked for Mr. French, with whom I had no previous acquaintance. He came out into the hall and asked, "Is this Mr. Shaw?" and said "I don't recognize you as the party I wanted to see." He then said, "It is too bad for you to come so far for nothing; suppose we walk up to Willard's." We then started out together and went to Willard's Hotel. We entered the lobby, where we stood a few minutes in general conversation, when Mr. French was approached by one Col. William P. Rice, whom he introduced to me. French handed Rice a five-dollar note, thanking him for the loan of it, when Rice remarked, "It has been so long I had forgotten it; let us go in and break it up." We then went into the saloon of the hotel, where they took drinks and I took a cigar. We came out and talked awhile in the lobby, when Rice suggested that we go into the restaurant above Willard's, where they (French and Rice) again took drinks and I took a cigar. When we came out Rice and French engaged in a private conversation, after which Rice excused himself and went up Fourteenth street. As I was about to leave French again excused himself for bringing me on a wild-goose chase; said he understood that I was a mighty good clerk, and that Rice was a man for me to cultivate; that he (Rice) had been on the National Republican Committee as assistant secretary; was in the lobby and acquainted with nearly all the Members and Senators, remarking as his last words as I was leaving, "He is a damned good man to know."

On the afternoon of April 29, 1882, the following note, in pencil, was brought to my house by a colored boy, whom I afterwards recognized in the employment of Rice:

MR. SHAW:

Meet me at Willard's Hotel at 4 p. m. on ——. If you are not in when this arrives, come down at 6 o'clock. I will be in the office of hotel.

FRENCH.

APRIL 29.

"At 6 o'clock I was at the hotel, and while waiting to see French, Rice came up and shook hands with me. I asked him if he had seen French, as I had come down there by appointment with him. He said he had not, and after talking for a few moments he suggested that we go up to the Ebbitt House saloon, as French was more likely to be there. We went in and sat down to a table, and Rice ordered beer for both. Rice commenced a running conversation on general subjects, asking me how long I had been in the city, the extent of my acquaintance, who I knew among public men, and as to my circumstances and present employment. After answering his questions in a general way, he ordered two more beers and then said he would like me to come up to his office; that he liked me and might be useful to me. When we got to his office he (Rice) pulled out a roll of money, and laying two \$20 notes on the table in front of me said, "I want you to get some information that is of importance to me. I do this on French's recommendation." I had previously told Rice that I was doing nothing except serving as a juror. He (Rice) then took from his pocket a list containing the names of the regular panel of petit jurors in the criminal court and asked me to look over the list and tell him all I could about each member—his politics, financial standing, habits, and the names of his nearest friends and acquaintances. I told him that I was on the panel and I didn't want to do or say anything in reference to the jury. He said he did not want to talk about any particular case, and that there was nothing improper in complying with his request; that he simply wanted to compare my views with information that he had already obtained. I looked over the list and gave him my ideas from the knowledge I had of the different members of the jury, which he noted on the margin of the same slip. Notes had previously been made on the slip opposite several names. I left him with the promise to meet him at his office on the following Monday, May 1. At that time he (Rice) took his breakfast at the restaurant under Willard's, and said that I would always find him there between 10 and 11 a. m., or at his office at 6 p. m. His office at that time was in the rear of the "Stone Building," corner of Fourteenth and F streets, next to Horbach's lottery office. I kept this appointment, and again the same matter was talked over, and I gave him such additional points as I had gathered. As I was about to leave he gave me \$10 and said, "Use this around among the boys, and I will give you money in a few days to fix up your own matters." We walked down to the Ebbitt House, got beer, then into the cigar store, when he (Rice) asked for long Key West cigars, two for a quarter, which were given him, the box being taken from the shelf and not from the case. I then left him with the understanding that I could see him at his office or about the Ebbitt House in the evening, or at breakfast, mornings. I continued to meet him from time to time, always in reference to these matters.

On the 3d day of May, 1882 (the day previous to the postponement of the star-route trial on account of the absence of John W. Dorsey), Rice came to my house

and was introduced to my wife and children. Before leaving he said to my wife that he had an important business matter with Mr. Shaw (meaning myself) that was developing, and would doubtless be to our mutual advantage. When I went to the door with him he put \$40 in my hand, which I handed to my wife when I went in the room, she remarking that I would get in trouble if I did not keep clear of that man. During this conversation with Rice he told me that "Holmead had been seen," and that from what he said I could talk with him and possibly learn something to my advantage.

On the morning of the 4th day of May, after the adjournment of the court on that day, because of the absence of John W. Dorsey, William Holmead (afterwards a juror in the case) and myself walked down Louisiana avenue toward Seventh street. Holmead asked me if I had ever been approached by any one in the interest of the defendants in the star-route cases. I told him that the case had never been mentioned to me, but I had furnished certain information relative to members of the two panels of the criminal jury, and remarked that I had an intimation that he (Holmead) had been "seen." He said that he was first approached by a warm personal friend, who said to him, "You are an old contractor, and know how contractors have to turn corners to get out, and that that is all there is in the star-route business, and you ought to make some money out of it; that they (the defendants) would like to have me foreman of the jury, and that in that case I would get double what any one else did." He further stated that he had agreed that if I would join him he should accept the proposition, remarking that the money must be put up in advance. I told him to go ahead and that I would be with him. Most of this conversation took place in Mades' restaurant, corner of Third street and Pennsylvania avenue, where we had walked during our talk.

During the following week Holmead asked me to walk down to Seventh street with him, and we went into Buckley's cigar store, on E street, opposite the General Post-Office Department, and into the back room, where we sat down. After awhile Michael Talty came in and shook hands with Holmead, by whom he was introduced to me. They had a conversation for a few moments. He (Holmead) said to me as we started out, "Well, I am satisfied now. I would not have gone ahead on uncertainties." I asked him if money had been put up, and he said that he had the word of a *man* that it was all right, and that that was as good as the money to him.

I continued to see Rice every day, but nothing important occurred until the 30th of May (Decoration day), when I went to his office about 11 o'clock a. m. by appointment. At that time we went over the list of jurors again, and I gave him (Rice) ideas gathered myself and from conversations with Holmead. When I left him he asked me to come down again at 6 o'clock that evening, which I did. We then talked matters relating to the jury over again, when he (Rice) told me to wait at the hotel a few moments until he came back, and went up Fourteenth street to New York avenue. I crossed and went up on the opposite side and saw Rice go into Chamberlain's. I walked back towards F street, and when he came down he stopped at his office door a few moments, then walked up Fourteenth street and beckoned me to follow. We went into Franklin Square, and he there gave me \$70 in ten-dollar silver certificates. This was my last interview with Rice until after the trial commenced.

On the morning of June 1, 1882, after having been challenged as a juror, I passed out into the east lobby of the court-house, where Senator Dorsey was walking up and down in company with Judge Charles Pelham. Dorsey stopped me and asked, "What was the matter with you and Merrick?" or words to that effect, and then turning to Pelham remarked, "This is one of Merrick's challenges. I never spoke to this man (meaning me) before in my life." As I came out in front of the city hall I met Col. William P. Rice, who, after greeting me, said he (Rice) had taken a room around on E street, No. 509, and asked me to come around there in about half an hour. I went around as requested, and saw him (Rice) in the back room on the second floor. He asked me what I thought about Murray and Tobriner. I told him that I did not know Tobriner even by sight, and only recognized Murray as a regular attendant at the court. Rice then said, "If those two men are all right it (meaning the jury) will stand twelve to nothing. I have told Dorsey that your services will probably be valuable, and you can consider yourself under pay and report to me here every morning about ten o'clock, when I will give you such points as we want to look up and you can report such information as you have obtained." Under this arrangement I was employed in the interest of Stephen W. Dorsey during the trial, reporting regularly to Rice, and frequently holding conversations with Dorsey himself about the court-house concerning the matters involved in my employment.

After Rice had remained a few weeks in his rooms on E street, he moved around on Sixth street, taking the parlor floor at No. 421, where I continued to report to him. At our first interview, under this arrangement, Rice told me that Stephen W. Dorsey had placed \$12,000 in his hands to fix the jury. This was when he referred to Tobriner and Murray. And he then said, as he had nothing to do with them (Tobriner and Murray), it left him a balance of \$2,000 in his hands, and he proposed to lay back

a little and see what Brady and the other defendants would do for Tobriner and Murray, and that would leave him a stake to work with without calling on Dorsey for more funds. At this first interview with Rice, after the trial commenced, he (Rice) asked me which members of the jury I was best acquainted with. I told him Holmead and Doniphan. He then told me that he was acquainted with Doniphan's family, and had been boat-riding with his (Doniphan's) daughter "Flossie;" that he "had got onto him," and he believed him to be all right, but that I could sound him from time to time and see how the information I got from him agreed with what he (Rice) got himself. I had myself previously talked with Holmead and told Rice that I knew that he (Holmead) was all right, and that I could talk with him without reserve. Rice told me to keep my eyes open as regards all the jurors, the movements of Government counsel, and "spotters," and to interest myself particularly in Doniphan, and to have Holmead keep me posted as to everything that was going on.

On Sunday, the 4th day of June, by direction of Rice, I went to Holmead's store, on what is known as Holmead's Lane, between Mount Pleasant and the Seventh Street road. The store was locked, and I gave a little colored boy ten cents to go to Holmead's house, near by, and tell him a gentleman wished to see him at the store.

Holmead came down and we went into the store. We had a conversation, in which Holmead said if he had known that I would have been challenged he would not have served as a juror, but having made the agreement that he had he should go through with it. I told him that from what I could understand he would not be alone and he need not feel anyway nervous about it. I asked him if any one had approached him in behalf of Brady. He said, no, his agreement only related to the two Dorseys, and that was as much as he wanted to carry. While engaged in this conversation Mr. Andrew Lipscomb (Holmead's lawyer) and a man then introduced to me as a Mr. Harmon, drove up to the store in a buggy. They went in—got a drink—ginger ale and whisky—when Lipscomb remarked to me that he was sorry I was challenged, as he regarded Holmead and myself the two strongest men on the jury for the Government. After they drove away Holmead and myself walked up to Holmead's house, where he introduced me to a man by the name of Stewart, and then we all went around in rear of the house, where Holmead picked some strawberries to fill an order. After walking back to the house, where Stewart left us, Holmead walked with me towards the lane. As we separated I said to him I shall not have anything to say to you around the court-house, but will manage to see you from time to time. He says "We must be mighty careful about this thing; no one will mistrust me, as I have a good deal of property in my own name, and shall be worth at least \$60,000 when mother dies, and which is practically mine now."

Edward D. Doniphan lived in the same section of the city I did, and in view of what Rice had said I always talked freely with him and he never hesitated to express himself freely to me; and from his conversations I always inferred that he was in full accord with the defense so far as the Dorseys were interested. On Monday morning, June 5, 1882, I went to Rice's room on E street, and he had company, but said he would meet me at the east front of the Capitol about dusk that evening. He did so, getting off of the car at Sanderson's corner. We went into the bar-room of Sanderson's and got a drink, and then walked up the extent of the Capitol grounds to First street, where we sat down on the stone coping. I related to him the result of my interview with Holmead, and a conversation held on Saturday with Doniphan. While engaged in this conversation, Searles, a baliff of the court, and a lady passed us, and Searles recognized us. I remarked, "that is Searles, Doniphan's son-in-law." Rice replied, "I don't care a damn; you are not on the jury. That is Flossie with him, that I was telling you about."

Some time the last of June or early in July Rice left the city, and I think was gone about a week; it was while the Washington Light Infantry was at Cape May, and that is where he stated to me that he went. Soon after his return the subject of Spencer came up, and Rice stated that that was part of his business away; that Spencer did not really know anything, but that he had talked and didn't want to go on the stand and go back on what he had said; that his (Spencer's) damn mouth had cost Dorsey \$100,000, and that he (Rice) was the only man in the United States that could put his hands on him.

On the second or third Sunday in July I went out to Holmead's store; sent a boy up to his house, as before; the boy said he could not find Mr. Holmead, that he was down in the field. I started to walk down that way, and found Holmead laying in the grass with two men. When he saw me he got up and went with me to the store. There we talked over the star-route trial matters, and arranged signals to be given by him from the jury-room. These signals were never used.

During August Rice was again out of town. The first knowledge I had of his return to the city he came to my house about 8 o'clock at night on Saturday, the 26th day of August; he came in a close carriage, which he said he got at the Ebbitt House. It was raining hard; Rice seemed a good deal excited, and said that Dorsey had given him \$1,000 for Doniphan, and he (Dorsey) supposed he (Rice) had placed

it, but he (Rice) had been led to believe that Doniphan was all right and had held the money. He further said he knew that Doniphan hadn't been fixed; that I should see him Sunday and make an appointment, so that I could bring them (Rice and Doniphan) together, as he (Rice) wanted to give Doniphan some money. Rice said he would give Doniphan two or three hundred dollars to make him easy and satisfy him that everything was all right; that he (Rice) was obliged to leave town on Sunday night, and did not feel safe to go away until it was fixed, and that in case I failed to see him at 12 o'clock to meet him (Rice) at the Baltimore and Potomac Depot at 9 o'clock and he would pay me the balance due me, requesting me to come to his (Rice's) room at 12 o'clock Sunday, and let him know how the matter progressed. I saw Doniphan Sunday morning at the three-cent car stand in the Capitol grounds, and we walked around and sat down on the Senate steps on the west side of the Capitol. I told Doniphan "this party wanted to see him;" that he was a man that he knew, or who claimed to be acquainted with his family. While we were talking it commenced to sprinkle and we separated, Doniphan promising to see me in the afternoon at the same place. I went to Rice's room, on Sixth street, at 12 o'clock, and the lady there told me that Rice's baggage had been sent to the depot, and she supposed he had gone. I saw Doniphan in the evening and told him I failed to see the party, but that I had an engagement to meet him at the Baltimore and Potomac depot at 9 o'clock, and asked him to go down. He said that he had to go as far as the church door with his wife; that he would leave her there and meet me at the depot. He failed to keep the appointment, and I remained at the depot until the departure of the 10.40 train, but missed seeing Rice.

On Friday, the 1st of September, I had a talk again with Doniphan on Pennsylvania avenue between the Capitol and Four-and-a-half street. From what he said to me about the standing of the jury, I felt satisfied that Dorsey had been "played." I passed Holmead in the west lobby of the City Hall near the door of the city surveyor, and in a moment's conversation which we had he expressed the fear that he stood almost alone. This was during recess. I crossed over in front of Hagerty's restaurant, and Dorsey came across in company with Colonel Ingersoll. Colonel Ingersoll passed in the door, and Dorsey came up to me and asked what was the matter—saying that I didn't look happy, or some such remark as that. I said to him, "Do you know when Rice will be in town?" He replied, "What do you want of him. I gave him your money before he went away; and if he has not fixed it I will." I said, "That is all right, I can wait until he comes; it is your own matters that bother me. I don't like the looks of things and think Rice ought to be here." Dorsey then asked, "What is the matter?" I said, "Well, Doniphan, I am satisfied, hasn't got a cent." Dorsey replied, "Why I gave Rice \$1,000 for him." I then repeated to him the conversation between Rice and myself at the house on Saturday night. Dorsey then told me to see Doniphan and find out what I could Saturday and to come to his house at 12 o'clock on Sunday. I did not see Doniphan Saturday, but on Sunday, the 3d of September, I went to Senator Dorsey's house opposite the Arlington Hotel. A colored boy, about sixteen years old, came to the door. I went into the parlor, and in a few minutes Dorsey came in. He took out some cigars and handed me one and said, "Now tell me about this Rice business." I then went over the whole matter and told him that from what I learned there was not more than two men on the jury he could depend upon. He says, "Well, we must have Rice here. I have trusted him with everything." He called his oldest son by the name of "Colonel"—"Colonel come here. Get your tablet and pencil and write." He then dictated this. "William P. Rice, Hoffman House, New York. Must be here by 12 o'clock to-morrow without fail." After requiring his son to read over what he had written he told his son to go up stairs and copy it into the book and to send it to the telegraph office at once. Dorsey then said this is the first intimation I have had of any hitch; who can we depend on. I told him there was no question about Holmead. He says, "I want you to go out and see him and let me know to-morrow." I went out to Holmead's, and he (Holmead) said that unless the jurors were lying they were almost unanimous for conviction. I said, "Well, I suppose you are going to stand fire." He answered, "Yes; I am going to see Dorsey through." I says, "How about John Dorsey?" He replied, "The evidence is stronger against him than it is against any one." I replied that his agreement as I understood it was for the two Dorseys, and that S. W. Dorsey wouldn't want to be acquitted if John was sacrificed. Holmead finally said, "All right."

Monday morning, the 4th of September, 1882, I saw Dorsey again in front of Hagerty's and related to him the result of my interview with Holmead. He says, "Well, Rice will probably be here during the day and matters will have to stand as they are until he comes." On Tuesday (September 5) I again saw Dorsey in front of Hagerty's and asked him if Rice had come. He said he had not, and then remarked that you (meaning me) seem to be the only one uneasy, that every one else seems to be in good spirits and thinks it all right. Dorsey then asked me what I thought of To-briner. I told him that I had never come in contact with him, but that I had always

been assured by Rice that he was all right. He told me to try and have a talk with Doniphan, and to let him know in the morning if I learned anything of importance.

On the morning of Wednesday, September 6th, I met Doniphan at the southeast corner of the Capitol, as he came up New Jersey avenue, on his way to the court-house. We walked around to the west side and he asked me the time. I told him it was early to get to the court-house and proposed that we sit down and have a talk. We then sat down on the Senate steps, west front, and I asked him what he thought of Ingersoll's speech. He replied that it was having big effect, and if Dorsey proposed to do anything now is the time. He said himself and Martin had been taking notes together through the trial, and that he (Doniphan) could control him. He then went on to say that he was hard pressed, or hard up, not having drawn any money for some time. I told him that the party I had spoken to him about and that I wanted to introduce to him on that Sunday was still out of town, but that I could possibly arrange it to get hold of a little money for him and arrange things satisfactorily, and told him all he had to do was to say the word. He said, "Well, wait and see what turns up to-day, and I will see you this evening." We then walked down the avenue. At Four-and-a-half street he crossed the avenue toward the Colonization Building and I kept straight down to Seventh street. At about 12 o'clock on the same day Dorsey was standing by the curb in front of Hagerty's and called me to him. He asked me if I had seen Doniphan. I told him I had, and gave him the conversation between Doniphan and myself, in substance. Dorsey made some remark about Rice not being here, and then asked me if I could fix this. I replied, if you have got a friend who will act for you I will bring him and Doniphan together to-night. He replied, impatiently, "God damn it, no; there are enough in this already; you must do it, Shaw; all may depend on him. I will stand by you as long as you live." I replied, "Well, I will see him to-night, and you had better arrange matters at once." He told me to meet him at 3 o'clock at Chamberlain's. I went there and passed through the front room into the back room. Dorsey was sitting in the corner by the door between the two rooms and beckoned to me. He handed me \$250—two \$100 greenbacks, one \$20 national note, and three \$10 silver certificates. The rooms were in confusion on account of preparations to move, the building having been sold or rented to the Young Men's Christian Association. Dorsey remarked, "Don't make any mistake; I will take care of you." At our previous interview in the morning Dorsey told me that I could give Doniphan a small amount for immediate use, and that he (Dorsey) would stand by any further arrangement that I made with Doniphan. Dorsey further said that he had plenty of influence, and could get all the places in the Departments he wanted, and that I could guarantee Doniphan a good position in addition to any money he might receive; that he (Dorsey) had got Rice's brother a place in the Pension Bureau. Rice had previously shown me a letter written by Commissioner Dudley to Senator Dorsey in effect that he (Dudley) would be gratified to appoint his (Dorsey's) friend Rice to a position in his Bureau, and to send him to him, so that he could talk with him personally and ascertain his qualifications and grade him. Rice was appointed by Dudley.

On the same evening (Wednesday, the 6th of September) I went down to the music at the east front of the Capitol, expecting to see Doniphan. As he did not come I sent my boy to his house on New Jersey avenue to tell him I was there. He sent up word that he would be up at about 7 o'clock. After the music was over I left and went down in the city, and have no knowledge as to whether Doniphan kept the appointment or not.

On Thursday morning, the 7th of September, I met him (Doniphan) again on his way to the court-house. I asked him why he did not keep his appointment, and he replied that things looked bad; that Dickson had been offered \$25,000, and had reported it to the court, and that there was likely to be hell when the court met. I then left him, and did not see him again until Friday morning (September 8th) by the Lincoln Monument just as he was going into the court-house. I passed him, neither of us stopping. I remarked, "Do the best you can; I will guarantee everything to be all right." He answered back, "I will see how they stand" (meaning the jury). I also passed Holnead in company with Olcott; called him to me for a moment; told him to be careful of Doniphan, and not to commit himself to any one on the strength of what might have been said to him. After dinner, about 4 o'clock, I came down the street. A man by the name of Byrne came up to me on the avenue between Four-and-a-half and Sixth streets; told me he had just come from my house, and that A. B. Williams wanted to see me at once. I went around to his (Williams's) office, and he told me that Doniphan had "squealed," and that he (Williams) wanted me to go at once with him to Chamberlain's. I told him I had heard nothing, and asked him for particulars, which he gave me. He then handed me two car tickets, and told me to take the avenue cars, and that he would go up on the F-street line and meet me at Chamberlain's, which was done. We went into Chamberlain's, walked back to a small room in the rear where there was a bar and got cigars. Williams asked me several questions about the matter, and I told him I had nothing to say to

any one except Senator Dorsey. We walked out into the front room, where everything was still in confusion. A large man, whom I supposed to be Mr. Chamberlain, apologized for the condition of things in the rooms. In a few moments Dorsey came in. Williams walked back into the rear, and Dorsey says, "Now, Shaw, what are you going to do?" I told him I was going to stand; that I wasn't the "squealing" kind. Dorsey said, "Well, what are you going to say?" I said my idea is to make light of it and to say that I was merely sounding Doniphan and had no money, and no idea of bribing him. He then remarked, "Then you didn't succeed in getting the money into his hands." I replied "No," and Dorsey replied, "That is good; now I want you to go out and tell Colonel Ingersoll." I went to the carriage standing at the curb and said to Colonel Ingersoll, "This whole thing is a put-up job, and there is nothing in it so far as Dorsey is concerned." Ingersoll replied, "Of course not; I know that, my boy." I then went back into the house and had a further talk with Dorsey, and showed him a letter which I had received that morning from William P. Rice, of which the following is a copy:

[Globe Hotel, Syracuse, N. Y., Dickinson, Austin & Bacon, proprietors.]

SEPTEMBER 4, 1882.

F. C. SHAW, Esq.:

MY DEAR SIR: I have been here several days—go farther North to-night. Will be in Washington probably next Saturday evening—by Monday morning, sure, and will arrange your matters. Hope everything is right as I left it.

Sincerely yours,

WM. P. RICE.

A line here will reach me Friday morning; let me hear from you by return mail.

Dorsey told me not to answer the letter and to keep away from Rice, adding, "You keep the money you have got on account of anything that he (Rice) may owe you; keep away from him. I will settle with him." He then called Williams and told him that he (Williams) was to act as my attorney; that he would procure bail if necessary and do everything essential for my defense, and at the same time instructed me to confide fully in Williams and be governed by his advice and counsel. Since that time Williams has been my counsel and I have acted in accordance with his instructions.

On the day previous to Dorsey's departure from the city (early in October and after the trial) I went to Dorsey's house, No. 1403 K street NW., by appointment. He then and there told me that Williams would have charge of all of the details of my case in the event I was indicted, and that he would arrange matters with him to provide against expenses, &c. Dorsey further said that I could have Colonel Ingersoll, William A. Cook, Davidge, or all of them if necessary. He said that Cook was under pay from him at that time and that he expected Davidge to take the place of McSweeney. This was the last interview I had with Dorsey until meeting him at the court-house during the progress of the second trial.

F. C. SHAW.

Sworn and subscribed before me this 28th day of February, A. D. 1884.

[SEAL.]

WARREN C. STONE,
Notary Public.

WASHINGTON, D. C., July 3, 1884.

HENRY D. LYMAN recalled and further examined.

By the CHAIRMAN:

Q. Mr. William P. Wood and Mr. William A. Cook were before this committee a few days ago, and Mr. Cook then denied that he had ever written a letter recommending the allowance of an extra month's pay to John A. Walsh upon route 40101, Mr. Woodward having testified that such a letter had been written and subsequently withdrawn and destroyed by Mr. Cook. Mr. Wood stated that a clerk by the name of Green had, at his request and as a personal favor to him, brought to him from the post-office files the jacket covering certain papers, and that he had taken that jacket to Mr. Totten, who was counsel for some of the star-route defendants, in order to show what action the Depart-

ment had taken with regard to the remission of fines and the allowance of an extra month's pay to Mr. Walsh, and he testified that that jacket at that time did not contain the papers that they were looking for; from which he inferred that those papers had been destroyed or suppressed. Please state what action the Department did take in the matter of the allowance to Walsh, and whether such a letter as Mr. Woodward testified to, written or indorsed by Mr. Cook, was ever exhibited to you.

The WITNESS. As I understand you, Mr. Cook's denial is a denial of the statement that he ever joined with Mr. Gibson in recommending the allowance of one month's extra pay to Mr. Walsh.

The CHAIRMAN. Yes, that is it; the denial having reference to some recommendation which was said to have been made in writing.

The WITNESS. Such a letter was written. After the application by Mr. Walsh for a month's extra pay was refused, he brought suit in the Court of Claims for the amount, and testimony was taken before Mr. R. S. Boswell, a commissioner. In my testimony before the commissioner I made no allusion to that letter, because I forgot it. Mr. Gibson subsequently testified before the commissioner, and my recollection is that he stated that he and Mr. Cook had united in a letter recommending the allowance of one month's extra pay to Mr. Walsh. As soon as I read Mr. Gibson's testimony it refreshed my recollection and brought the letter clearly back to my mind. Mr. Gibson was asked whether that letter should not be on file, and he said it ought to be; which was very proper, of course. I then made a search on the files to find the letter, but was unsuccessful. I had my clerks search for it, but they could not find it, and I thought it very remarkable that they could not find that letter. Some weeks afterwards Mr. Woodward came into the city from Connecticut, and we were discussing this Walsh case in the Court of Claims, and I said to him, "By the way, there was a letter written by Gibson and Cook recommending this extra month's pay; I distinctly remember it, but I have made search on the files and cannot find it. It is a very singular thing that it has disappeared." Mr. Woodward at once said, "I can tell you all about that letter. One day Mr. Cook asked me to go up stairs and get that letter. I went up stairs and got it and took it down to the room, and while we were there talking Mr. Cook read it and leisurely tore it up into small pieces and threw them into the waste-basket. I did not think anything of it at the time, as we were talking of other matters; but I recollect his tearing up the letter. I said, "Mr. Woodward, that letter was a part of the files of the Department, and ought not to have been destroyed." He said, "That is so. I did not think of that at the time I gave it to Mr. Cook." I distinctly recollect the letter. I think I am not in error as to what Mr. Gibson testified to in the Walsh case in the Court of Claims. That testimony is now on file in the Court of Claims, and can be examined if necessary.

Mr. GIBSON. I think it is not filed. I think the stenographer gave it to Mr. Wilson, one of the counsel for the star-route defendants.

The WITNESS. I think you are in error there.

Mr. GIBSON. Mr. Wilson told me he had the testimony. That is all I know about it.

The WITNESS. Mr. Boswell told me that he had, with the acquiescence of Mr. Walsh, shown the testimony to Mr. Wilson, but that it was now filed in the Court of Claims.

In relation to the testimony of Mr. Wood about the disappearance of a

paper from a remission case on route 40101, I presume he refers to a paper which was indorsed by Mr. Gibson and Mr. Woodward and Assistant Attorney-General Freeman, recommending the remission of certain fines and deductions which had been imposed upon Mr. Walsh as a contractor upon that route. Mr. Wood's testimony as to the absence of that paper from the jacket is correct. After the remission in that case was made, I took that paper out of the jacket and placed it in my safe, for the reason that I feared somebody might abstract it. It was the only paper we had to show why the remission had been made, and I took extra precautions to see that it was secure. I feared that some person might abstract it from the files. Mr. Wood says that Mr. Green did take the jacket to one of the counsel for the defense, and I think that fact goes to show that my action in taking the paper out of the jacket and taking extra precautions to preserve it was amply justified.

By the CHAIRMAN :

Q. It was for the purpose of preserving the paper that you took it out of the jacket?—A. For the purpose of preserving it, and as Mr. Green took the balance of the papers in that jacket to one of the counsel for the defense and only discovered the absence of that paper in that way, it shows, I think, that my apprehensions and precautions were well founded.

By Mr. GIBSON :

Q. Do you recollect that I asked you to look up that paper, as well as two affidavits made by Walsh?—A. No; I do not recollect that.

Q. And afterwards got them from you?—A. I cannot recall it. It is probably one of those things that happened, but I do not recall it.

By the CHAIRMAN :

Q. At any rate, whether that was suggested by Mr. Gibson or not, it was done.—A. Yes, sir. I will tell you something further that occurred about that paper. We subsequently called for Mr. Green's resignation, for reasons which I do not think it necessary to state here. We thought he was incompetent for the place, and I think the testimony of Mr. Wood amply justifies us in calling for Mr. Green's resignation, although we did not at that time know of the facts as Mr. Wood states them. In the trial of the Dorsey case a subpoena was sent up by the court calling for that jacket and all the papers. In the mean time I had had a certified copy made of the papers that I had taken out. I had done that as an additional precaution. I had put the certified copies in the jacket and placed the originals in my safe, and when the papers were called for by the court I withdrew the copies from the jacket and put the originals back in it, and sent them down. Since they went down to court those papers have disappeared in some mysterious manner, and I have had to have another certified copy made in the place of them.

Q. Then the originals are not now on file in the Department?—A. I cannot find them anywhere. So you see Mr. Wood was correct in his statement that that paper was out of the jacket.

Adjourned.

WASHINGTON, D. C., *July 3, 1884.*

GEORGE M. SWEENEY sworn and examined.

By the CHAIRMAN:

Question. Please state your residence and occupation.—Answer. I reside in Washington. I am chief clerk of the contract office of the Post-Office Department.

Q. How long have you been employed in the Department?—A. I was appointed in April, 1875. I resigned in July, 1882. I was reappointed in October, 1882, and have been there ever since.

Q. There has been some question before this committee and some conflict of testimony as to whether there was ever filed in the Post-Office Department a letter or communication signed by Messrs. William A. Cook and A. M. Gibson, recommending the allowance of a month's extra pay to John A. Walsh as a contractor on route 40101. Do you know anything about any such paper?—A. I have seen a paper purporting to be signed by William A. Cook and I think by A. M. Gibson. I am certain that it purported to be signed by Mr. Cook. I think it was addressed to H. D. Lyman, Acting Assistant Postmaster-General, or to the Second Assistant Postmaster-General, a paper recommending such allowance.

Q. About what time was it that you saw that paper?—A. That was in 1881 or 1882. I think in 1881, in the summer time, but I cannot fix the exact date. I should say that it was certainly after the 21st day of May, 1881, and I think it was before cold weather, but I am not certain about that.

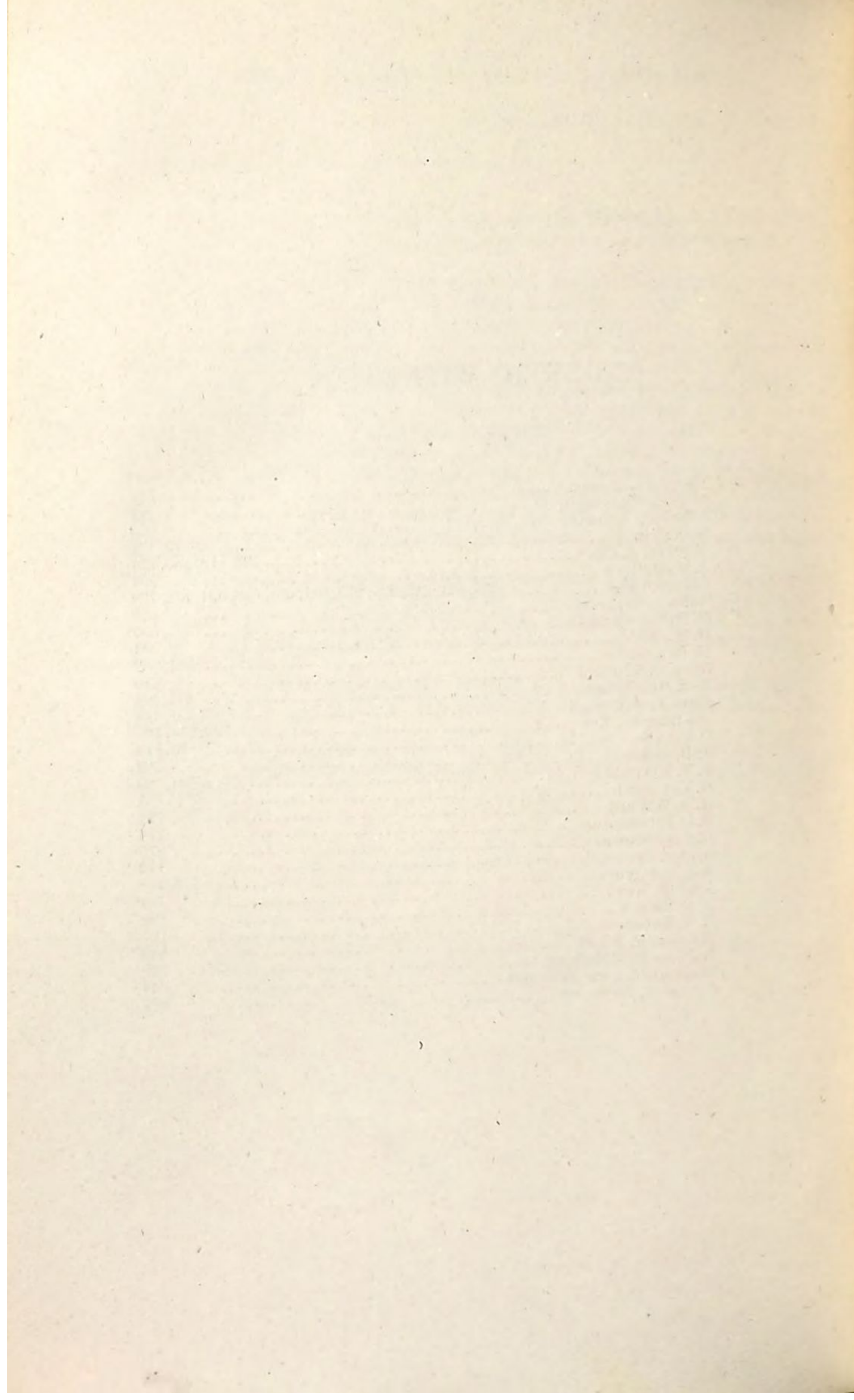
Q. Do you know whether that paper is now on file in the Department?—A. I do not know of my own knowledge, but I have been told that it is not on file.

Q. If it has disappeared from the files, you do not know anything about the circumstances of its disappearance?—A. Not of my personal knowledge.

Adjourned.

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CHAPTER IV

THE first of the four great principles of the
constitution is the principle of the separation of
powers. This principle is the foundation of the
entire system of government. It is the principle
which divides the powers of government into three
distinct departments: the legislative, the executive,
and the judicial. Each of these departments is
vested with a separate and distinct power, and
each is held accountable to the people for the
exercise of its power. The separation of powers
is the principle which makes the government
a government of laws, and not a government of
men. It is the principle which makes the
government a government of the people, and not
a government of the few. It is the principle
which makes the government a government of
the future, and not a government of the past.

TESTIMONY

RELATING TO

EXPENDITURES

IN THE

DEPARTMENT OF JUSTICE.

THE OTTMAN CASE.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1884.

THE OTTMAN CASE.

WASHINGTON, D. C., *March* 15, 1884.

The chairman laid before the committee the following papers:

APPLICATION OF OTTMAN FOR DISMISSAL OF PROCEEDINGS AGAINST HIM.

NEW YORK, *January* 21, 1882.

SIR: I respectfully beg leave to call your attention to certain civil suits and criminal prosecutions now pending against me in the supreme court of the District of Columbia and in the circuit court of the United States for the eastern district of Virginia, and ask your favorable consideration of this application for their dismissal.

At a criminal term of the supreme court of the District of Columbia held in December, 1875, I was indicted for the larceny of about \$47,000, alleged to have been taken from the Treasury building in Washington about June 2, 1875, and also charged with having received said moneys, the property of the United States, knowing them to have been stolen.

The indictments were consolidated by the order of the court, and I have been twice tried upon them in said court; the first trial was commenced March 21, 1876, and ended April 13, 1876, the jury disagreeing, standing seven for acquittal and five for conviction; the second trial was commenced March 29, 1877, and ended April 13, 1877; the jury disagreeing, standing eleven for acquittal and one refusing to vote, declaring his opinion to be that the evidence would not justify a conviction, but that the jury ought to disagree, so that there could be another trial; this fact is shown by written statement, signed by eleven of the jurors, sworn to and now on file among the papers of the United States attorney for the District of Columbia, and which read as follows:

"We, the undersigned, jurors in the case of W. H. Ottman, do honestly aver that at this last trial in the month of March, 1877, the jury stood *eleven* (11) for acquittal, and the other one when questioned, replied, 'that he would not vote for acquittal, and the evidence was insufficient to convict,' consequently the jury failed to render a verdict.

H. R. GODDARD,
JULIUS VIEDT,
S. R. WALLS,
WILLIAM A. SCOTT,
JAMES LYNCH,
ORLANDO BELL,
LOUIS P. SEIBALT,
WILLIAM GRIFFIN,
WILLIAM BECKETT,
J. E. PARSONS,
R. E. TALIAFERRO,

and sworn to by James Lynch, one of the said jurors."

The eleven jurors who were in favor of acquittal, for the purpose of testing the dissenting juror, inquired of him whether in case they would all vote for conviction he would vote with them, and thus put an end to the case. He replied that he would not, because he thought the testimony given on that trial was not sufficient to justify a conviction.

That since said second trial, ending in April, 1877, no action has been taken by the United States in or concerning the further prosecution of said indictments, but the same are now pending.

That in August, 1875, the United States commenced a civil action against me in the supreme court of the District of Columbia, to recover said sum of about \$47,000, and and a warrant of attachment issued therein, and about \$3,000 of my property, real and personal, was attached; that I filed a motion to quash said attachment and said attachment was quashed in July, 1876, and the United States prayed an appeal to the

general term of said court, but no further action has been had or taken by the United States therein, and that said suit is now pending.

That in August, 1875, another civil suit was commenced against me by the United States, in the corporation court of Alexandria, Va., to recover said \$47,000, and an attachment was issued therein, and certain money, stocks, and certificates of mine were attached, and then said suit was, by the United States, moved into the circuit court of the United States, for the eastern district of Virginia. That I filed my answer in said action and that nothing further has been done therein, and that said action is now pending.

That besides the above suits the officers and authorities of the United States seized in 1875, and now hold, nineteen thousand five hundred dollars of my money and refuse to surrender the same.

Thus all my money and property, the fruit of many years of honest industry, are seized and held and tied up by the United States. I am innocent of the crimes charged against me, and I respectfully submit that I ought not to be further prosecuted in these criminal and civil actions.

In December, 1877, I addressed a letter to the Hon. Kenneth Rayner, Solicitor of the Treasury, asking him to take action in these cases, and to cause them to be dismissed. That application was, as I am informed, the same month referred by the Solicitor to the Attorney-General and by the Attorney-General referred to H. H. Wells, the United States attorney for the District of Columbia, for action, but no action has ever been taken in regard thereto.

I now respectfully ask you to carefully examine, or cause to be examined, these civil and criminal actions, and if consistent with the public interests, the due administration of justice, and your sense of public duty, that you will direct, or authorize the proper district attorneys for the District of Columbia and the eastern district of Virginia, to discontinue said civil suits, and enter a *nolle prosequi* on said indictment.

I feel sure that you will on such examination become satisfied that I cannot be convicted on said indictment, nor can the United States be successful in said civil actions.

The United States may oppress me and embarrass me, yet I respectfully submit that where no result favorable to the Government can be expected, it should not hold my property, nor continue said indictment against me for all time.

Very respectfully, yours,

W. H. OTTMAN.

Hon. BENJAMIN H. BREWSTER,

Attorney-General for the United States, Washington, D. C.

CORRESPONDENCE.

DEPARTMENT OF JUSTICE,
Washington, February 2, 1882.

SIR: I inclose copy of the petition of W. H. Ottman, praying for the dismissal of all proceedings against him founded upon the charge that he stole about \$47,000 from the Treasury building in June, 1875. You will please report the status of the case against Ottman, and advise me whether in your judgment his request ought to be granted. With your report please return the inclosures.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

GEORGE B. CORKHILL, ESQ.,
United States Attorney, Washington, D. C.

OFFICE OF UNITED STATES ATTORNEY, DISTRICT OF COLUMBIA,
Washington, D. C., February 27, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 2d instant, concerning the cases of the United States *vs.* William H. Ottman, and of the 7th instant, inclosing a petition of Mr. Ottman's for the dismissal of the pending proceedings against him.

In reply to your request for a report as to the status of the cases, and my opinion as to the propriety of complying with the petitioner's request, I beg to say that in the summer of 1875 Ottman was indicted in the supreme court of this District for the larceny of \$47,097.65 of the moneys of the United States from the United States Treasury building in this city.

He was also indicted for receiving the same money knowing it to be stolen, and for receiving it knowing it to be embezzled.

These indictments were subsequently consolidated and twice tried together, as stated in the petition, the jury upon each trial failing to agree. The last trial was in 1877, since which time no action had been taken in the cases. It will be seen that Mr. Ottman was indicted seven years ago; but the last trial was in 1877, while the office of district attorney was held by my predecessor, who did nothing further in the cases, although he remained in office three years after that time. At the time the criminal proceedings were instituted a civil suit was brought against Ottman in the supreme court of the District for the recovery of the amount of the stolen money. Upon the filing of this suit an attachment issued, which, on the 17th of August, 1875, the marshal returned executed upon the property set out in three schedules filed with the return. These schedules embraced:

(1.) A horse and mare, appraised at \$1,000, which were subsequently sold, under order of court, and the net proceeds, \$277, paid into the registry of the court, where it now remains.

(2.) The stock and fixtures of a bar-room, appraised at \$797.85, which were subsequently released to the defendant upon his entering into bond with sufficient security to make good the value of the property in the event of a judgment against the defendant.

(3.) Certain real estate in the city of Washington, standing in the name of the defendant, but which proved to be encumbered to the amount of its value.

No appearance for the defendant was entered in this case other than a special appearance for the purpose of a motion to quash the attachment; which motion prevailed in the court of first instance, but this decision was reversed by the general term, to which the case was appealed by the United States. This reversion was entered May 21, 1877, since which date no step has been taken in the case, except the payment into court of the proceeds of the sale of the horses, June 6, 1877, and the release of the other personalty under bond, December 19, 1877. No issue has ever been made up upon the merits of the case.

In connection with the criminal proceedings, the police authorities of this District acquired possession of the sum of \$19,525, of which \$14,500 was obtained from the German Bank of Alexandria, Va., where it had been left as a special deposit by Ottman; \$1,025 was found upon the person of the defendant, and the balance was obtained from two persons who were alleged to have received it from him for the purpose of having the notes, which were of large denominations, changed and their identity lost. This money, I am informed, is now in the hands of the Treasurer of the United States as a special deposit, subject to the order of the Commissioners of the District of Columbia. The title to it is, of course, involved in the pending criminal prosecutions, and is still undetermined. These are the substantial facts as they appear of record in my office.

Having been of counsel for the defendant in both the civil and criminal cases, I cannot with propriety now advise the plaintiff (the United States) as to its further action in the premises, and I therefore respectfully suggest that you designate some member of the bar as special assistant district attorney, whose duty it shall be to investigate the cases with a view to determining whether they should be further prosecuted, or dismissed, and to take entire charge and control of any action.

In accordance with your request, I herewith return the petition of Mr. Ottman.

Very respectfully,

GEORGE B. CORKHILL,
United States Attorney, District of Columbia.

HON. BENJAMIN HARRIS BREWSTER,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, March 4, 1882.

SIR: Acknowledging the receipt of your favor of the 21st ultimo, in relation to the case of the United States *vs.* W. H. Ottman, now pending in the supreme court of the District of Columbia, in which you state that, having acted as counsel for the defendant in both the civil and criminal cases, you cannot now with propriety advise the plaintiff as to its further action in the premises, I have to request that you will place in the hands of George Bliss, esq., whom I have designated to act on the part of the Government, and who will make a report to me, all the papers in your possession relating to the cases.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

GEORGE B. CORKHILL, Esq.,
United States Attorney, Washington, D. C.

OFFICE OF UNITED STATES ATTORNEY, DISTRICT OF COLUMBIA,
Washington, D. C., March 7, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 4th instant, directing me to hand to George Bliss, esq., the papers in the case of the United States *vs.* William H. Ottman, and shall have pleasure in complying with your instruction whenever Mr. Bliss shall call for the papers.

Very respectfully,

GEORGE B. CORKHILL,
United States Attorney, District of Columbia.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, D. C., March 4, 1882.

SIR: I invite your attention to the inclosed copy of a letter dated the 21st of January, from W. H. Ottman, and a copy of a letter from G. B. Corkhill, United States attorney for the District of Columbia, in relation to certain civil suits and criminal prosecutions now pending against said Ottman in the supreme court of the District of Columbia and the circuit court of the United States for the eastern district of Virginia.

It having been represented to me by the district attorney that he had acted as counsel for the defendant in both the civil and criminal cases, and therefore cannot with propriety advise the plaintiff—the United States—as to its further action in the premises, I have informed Mr. Corkhill that you have been designated to take charge of these cases, and that he will hand over to you all papers relating to them, and I shall feel obliged if you will be kind enough to report to me at your earliest convenience what conclusions you may reach.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

GEORGE BLISS, Esq., *Washington, D. C.*

REPORT OF GEORGE BLISS, ESQ., RELATIVE TO CERTAIN PROCEEDINGS AGAINST OTTMAN.

WASHINGTON, D. C., *May 25, 1882.*

DEAR SIR: I duly received your favor of March 4, transmitting me a copy of a letter from W. H. Ottman and a letter from United States Attorney Corkhill, in relation to certain civil suits and criminal prosecutions now pending against Ottman in the supreme court of the District of Columbia and the circuit court of the United States for the eastern district of Virginia, and stating that Colonel Corkhill had, before he became district attorney, been counsel for Ottman, so that he could not advise the Government as to the cases, and asking me to report at my early convenience what conclusions I arrived at on the request contained in Mr. Ottman's letter.

Mr. Ottman's letter requests that certain civil suits against him be dismissed, a *nolle prosequi* entered on an indictment, and money seized as his be returned to him.

The nature and details of the proceedings, civil and criminal, are stated in general terms in Colonel Corkhill's letter. They are, briefly, an indictment pending in this District for receiving money knowing it to be stolen and embezzled; a civil suit pending in the supreme court of the District for the recovery of money alleged to be stolen, in which suit an attachment of property which netted \$211 was realized and a bond was given for \$797.85 more; and, finally, a civil suit for the same purpose now pending in the circuit court for the eastern district of Virginia, in which a debt due from a bank as a deposit for about \$12,500 was attached.

Nothing has ever been done in the civil suits beyond some litigation as to the attachments. In connection with the criminal proceedings the police acquired possession of \$19,525, of which \$14,500 came from a box deposited in the German Bank of Alexandria, \$1,025 from the person of Ottman, and \$4,000 from a person to whom Ottman is alleged to have given them. This money is in the hands of the Treasurer of the United States as a special deposit, subject to the order of the Commissioners of the District.

Mr. Ottman says:

"Thus all my money and property, the fruit of many years of honest industry, are seized and held and tied up by the United States. I am innocent of the crimes charged against me, and I respectfully submit that I ought not to be further prosecuted in the criminal and civil actions."

He states that he made a similar application in December, 1877, on which no action was taken.

Since I received your letter, I have devoted much time to the examination of the case. I have received from Colonel Corkhill a large mass of papers, many of them originals, of importance. I have procured and examined the elaborate minutes of the testimony taken on the two trials of the indictment, though the copy is not quite complete. As one trial lasted about twenty-two days, and the other fifteen, this alone has involved no slight labor. I have also consulted Judge MacArthur, who tried the case the last time.

Judge Olin, who presided at the first trial, is dead. I have consulted Mr. Wells, who, as district attorney, tried the case, and Mr. Jeremiah Wilson, who, as special counsel, assisted him. I have also seen Mr. Merrick, who was one of Ottman's counsel, and I think I have ascertained all that can be learned. The facts are substantially as follows:

Early in June, 1875, there disappeared from the Treasury Department a package of money containing something over \$47,000. It had been put up for the Park Bank, New York, and was discovered to be missing when the packages of that day were sent to the Adams Express office in the room under that in which it was put up. The circumstances of the disappearance left no doubt that it had been stolen by or with the connivance of some one employed in the room where it was put up. Some months subsequently, Benjamin B. Halleck, who was employed in the room, was arrested for the robbery, and Mr. Ottman was arrested charged with knowingly receiving the money, and the civil proceedings specified were also taken against him. Halleck was tried and convicted, but his conviction was set aside at general term. Ottman was tried in April, 1876, before Judge Olin and a jury, and the jury disagreed, standing five for conviction and seven for acquittal. On this trial the court obviously leaned very strongly against the accused, and Halleck's alleged statements, made out of court, under inducements, more or less direct, while he was under arrest, were admitted in evidence. Ottman was tried a second time, in April, 1877, before Judge MacArthur and a jury. On this trial the case of the Government was prepared and presented with wonderful industry and great ability. Every apparent trace of evidence was followed out by the district attorney and special counsel employed. I have never known of a case which seemed more carefully prepared or more thoroughly tried. On this trial Halleck became a witness for the Government under a written agreement with the Attorney-General that if he should testify fully and fairly in this and other cases growing out of the transaction he should himself be freed from prosecution. His story upon the stand was in many respects absurd and improbable. In conversation with me the counsel for the Government do not pretend to believe it was true in important respects. Halleck's story was, briefly, that he did not take the money and knew nothing of its being taken, but that some ten days after it was taken, one Gates, an utter stranger to him, approached him in a drinking saloon and, with very preliminary caution, in effect told him that he, Gates, stole the money and had hidden it in a water-closet in the Treasury building and wanted Halleck's assistance to remove it. Halleck claims that he undertook the job, after consultation with Ottman, and that some days afterwards they got the money away and Ottman kept it, and that they promptly cheated Gates of any share in it, an outrage which he seems to have endured quietly. No man ever saw or heard of Gates. He is a myth. I have no hesitation in saying he never existed, and it is physically impossible the money could have been taken in the manner Halleck says Gates told him he took it. In short, Halleck appeared upon the witness stand the self-confessed recipient and taker of stolen money. He told a story which was in one important respect—the creation of the fabulous Gates—a patent untruth. It was too much to ask a jury to believe anything such a man said. Had he come forward and admitted that he was the thief and was repentant, and wanted to aid the Government to get its own, I think it quite probable he would have been believed. As it was, he was torn to pieces under cross-examination, involved in contradictions, and, if I may judge from the evidence and from what is told me, must have presented a pitiable spectacle.

Apart from Halleck there was no direct or indeed any really incriminating evidence against Ottman. It was shown that Ottman was shortly after the robbery in possession of large sums of money. This money was much of it in bills of \$500, which was the denomination of those stolen. There was millions of such bills outstanding. The nearest that the Government could come to an identification of the bills that Ottman had with those stolen was the general recollection of one clerk that among the bills put up that day, those in the stolen package included some numbered in the seven thousands, and a considerable number of the bills found in Ottman's possession were numbered in the seven thousands. Ottman was at the time the proprietor of a large drinking saloon, doing a large business and a man of some means. Some attempt was made on his part to show the possession of considerable sums, but on the whole I do not think, except possibly as to one witness as to one occasion, they were at all successful in showing Ottman possessed at any time of any such amounts

of money as were traced to him at this period, while some of his witnesses on this point were, I think, undoubtedly liars. At that time Ottman could not be a witness in his own behalf.

Both before and after his arrest Ottman acted in a very extraordinary manner as to the money found in his possession and as to other money shown to have been disposed of about that time by him. Without going into details, his conduct with reference to the money was such as, it seemed to me, to leave no reasonable doubt that the money he had he desired to conceal and to dispose of without being known. If it was not a part of the money stolen from the Government, it must have been, to judge from Ottman's actions, the proceeds of some other improper transactions. The whole evidence leaves no moral doubt upon my mind that the money seized was in fact a portion of the \$47,000 stolen from the Government, though I am not prepared to say that were I a juror, under oath, I could so find; and it is of course possible that Ottman under oath could show that my belief in this respect is not correct. I think as the evidence now stands I should turn Scotchman and say, "not proven."

The condition of things is, then, this: The Government lost \$47,000. It has seized in Ottman's possession, or as his, about \$33,000, which is I believe a portion of this money. This occurred in 1875. The Government has since in two trials, one in 1876 and one in 1877, sought to satisfy a jury of this latter fact and has failed. On the first trial it had the advantage of a court which ruled strongly in its favor. On the second trial it had the advantage of a case prepared with greater care than often happens. The defendant's mouth was shut. The undoubted thief was seeking under every inducement to swear himself into immunity and freedom. The recollection of the facts were fresh in the minds of all the witnesses, and none were missing. I do not see how the Government could ever again expect to have so favorable situation.

If another trial was now had it would appear that Halleck had been discharged on his own recognizance and has gone to one of the Western Territories. If he were found, as I assume he could be, and were brought here as a witness—though I am told that he would not come if he could avoid it—he would not feel himself in any danger from the Government, and would, therefore, not be a very earnest witness in its behalf. I am told he feels that he was badly treated by the Government; he would naturally not care to revive and repeat the story of his own disgrace. Assuming, however, that he were as honest and willing as ever, he must, so far as possible, tell the same old story, with all its patent absurdity as to Gates. As much of his story is an undoubted lie, he must of necessity become more and more involved in contradictions. It would be impossible after this lapse of time that, under cross-examination, he should not be involved in even greater contradictions and absurdities than before, so that he would be utterly discredited. Without him, the evidence for the Government would be wholly inadequate. With him, it would be largely discredited. As Ottman can now testify in his own behalf he would, even if he were guilty, have no great difficulty in giving a story to account for his possession of so much money, which could be discredited only in case he were a man unable to stand a cross-examination. I do not know what sort of a person he is, but, if guilty, I incline to think that he could at this late day "stand the racket." One or more of the witnesses against Ottman are dead.

In only one respect has it been suggested that the Government would stand better now than it did on former trials. The moral atmosphere of the court and jury rooms is believed to be more favorable to justice now than it was at the time of the former trials. The court could not possibly be more favorable than Judge Olin was on the first trial. On the second trial Judge MacArthur seemed to have been fair and to have believed the money found in Ottman's possession was the Government's, but that it was not proven to be so. As to the jury, they stood, as already stated, on the first trial five for conviction and seven for acquittal. On the second trial they stood eleven for acquittal and one who refused to vote either for conviction or acquittal, saying there was not enough to convict. Among the eleven there was at least a majority of fair, honest men, than whom no better men could be found in the jury-box on a new trial.

I have no idea that on a third trial a conviction could be had. I have found no one who will say he thinks so. Mr. Merrick, who defended Ottman, is confident that such a result could not be obtained, and his judgment is entitled to some weight, because he is careful not to say that the money is not in fact the Government's. Judge MacArthur informs me that he does not think a conviction could be had, though I judge he believes Ottman guilty. Mr. Jeremiah Wilson, who tried the case as special counsel for the Government and is strongly convinced of Ottman's guilt, does not venture to express an opinion that a conviction could be had, though thinking that if Ottman were forced to a new trial he would settle by giving up all claim to the money. As, however, some of it has passed from him by assignment, he could not control it. Mr. Wells, who was district attorney, says he has no idea a conviction could be had.

The case in its final result is then this: The Government has tried twice to convict Ottman under circumstances more favorable to it than could again occur. It has

failed, and by a great preponderance, with the jury. It has done nothing for over five years. During that time it has held \$33,000 of money found in Ottman's possession or under his control, and maintained its attachment on \$14,000 more. Ottman now asks that the proceedings, civil and criminal, should be dropped and the money returned to him. I do not see how the Government can refuse this request so far as the criminal proceedings are concerned. It has no right to expect to be able to convict him. Assuming as I do that the money is part of that stolen from the Government, still I am confident that no jury will ever in a criminal case be convinced of that.

As to the civil proceedings in the case pending in this District, the United States has realized on what property it attached and has no very marked interest to proceed with that suit, unless it could extend its attachments either on mesne process or execution to the \$19,500 seized by the police. Assuming that it could do this, it could only hold it by proving in that suit that it had failed to prove in the criminal suit. It must prove Ottman's guilty participation in the receipt of the money. There is no evidence it could rely upon other than what it had in the criminal suit. Halleck would be needed to swear to the same story and would be equally discredited. There would be the same detail of evidence as to the \$500 bills. Twelve days after the robbery Ottman was in possession of about \$10,000, most of which was in bills of \$500 some of or all of them being Treasury notes. There is no proof of their number or anything to identify them with those stolen. There were at that time about 148 million dollars in \$500 Treasury notes outstanding, and about 28 millions of that particular series. A month or so later he is shown to have had other bills of the same denomination to the extent of several thousand dollars; but there is just as little proof of their identification. The bills found in the box deposited in the German bank were 29 bills of \$500 each. They were Treasury notes, all even numbers, one numbered 2342, one 5172, one 5200, eight between 6950 and 6998, but in no case continuous numbers, and 16 between 7006-7158, but in no case continuous numbers. The ordinary run of notes of these numbers had been issued from the Treasury Department eight or ten months previously, and at the time of the robbery the Treasury was issuing notes numbered from about 48000 upwards. There had, however, shortly before the robbery, been received for redemption a package of notes which had been issued at some previous time, and the package put up for the Park Bank was made up from these notes so received. Among them one witness remembered, as already stated, that there were some notes numbered in the seven thousand, but he said the numbers were "mixed up." There was no other identification of the notes stolen with those seized than is found in the foregoing facts. It is, of course, singular that Ottman should be found eight or ten months after the original issue with so many notes numbered from 6900 to 7100. But there were two numbered in the five thousands and one in the two thousands in the same lot. Moreover, the theory that the bills found in Ottman's box were a portion of those put up for the Park Bank involves the assumption that some person or institution had had in his possession these bills with numbers so nearly continuous for many months and had returned them to the Treasury for redemption, though they were in fact nearly new. Obviously if a person could keep them so long and send them to the Treasury, it is equally possible that a person could keep the bills in the same manner and pass them directly or indirectly to Ottman. I do not suppose this did in fact occur, for I believe the money in Ottman's box belonged to the Government; but apart from Halleck's evidence the only proof of that is this proximity of numbers, and that, together with Ottman's acts and his anxiety to conceal the box, constitutes the only evidence of Ottman's guilt. I don't believe it would convince a jury any more than it did in the criminal case.

The fact of the bills being only even numbers with no odd ones would seem to show that they are not in the order in which they originally went from the Treasury Department, for I learn on inquiry that bills when first issued are carefully kept in their numerical order.

Mr. Wells, the former district attorney, seemed, on an interview, to think that, as the suit in Virginia was in equity, and therefore no jury would be needed, a decision favorable to the Government could be had there. But it would be necessary to prove Ottman's guilt in the same manner as in the other cases. The money deposited in the bank by Ottman could be shown to have been in part at least bills of the denomination of \$500, or the proceeds of such bills. But there is no proof as to the numbers of any of them. Other than this the Government must rely upon Halleck and such other evidence as it had in the criminal case. I do not quite understand the nature or theory of this suit in equity, but, assuming that Mr. Wells states it correctly, it could at most result in a judgment for the \$12,500 remaining to Ottman's credit.

Having arrived at the conclusion that the Government cannot succeed in its suits, civil and criminal, I have still been impressed by a strong reluctance to advise the absolute surrender of the money the Government holds, for, as I have already said, I believe it is part of the stolen money, and I am unwilling to see such a total failure of justice as I believe would be involved in that course. I have therefore sought to

see if, so far as the civil suits were concerned, some compromise could not be effected. I have been baffled in this attempt by the fact that a considerable portion of the money has, by assignment, passed from Ottman's control, and that the legal title to much of it is subject to the claim of the Government in other and *bona fide* holders. Within a few days, however, I have been led to believe that if it were understood that the Government would take no action unless that course were pursued, an arrangement could be made by which, on the release of all its other claims, the amount attached in Virginia, about \$12,500, would be surrendered. This is the sum embraced in the proceeding in which no jury would be necessary, and is all that, in my opinion, the Government would stand the remotest chance of securing by litigation. If you will authorize me to make a negotiation of that sort, I have considerable hope that I can succeed. I ought to add that in such an arrangement all claim by Ottman or his assigns for interest or damages should be waived. If the result of litigation were against the Government the amount of this claim would be considerable.

Your obedient servant,

GEORGE BLISS.

HON. BENJAMIN HARRIS BREWSTER,
Attorney-General.

REPORT OF GEO. BLISS, ESQ., RELATIVE TO THE SETTLEMENT OF THE OTTMAN CASES.

DEPARTMENT OF JUSTICE,
Washington, June 3, 1882.

DEAR SIR: Acting upon the authority given me by you on the presentation of the report I made in the case of the application of W. H. Ottman, I have with much difficulty agreed upon the following compromise:

1. Mr. Ottman is to surrender to the Government a sum equal to the amount secured by the attachment in Virginia, to wit, twelve thousand five hundred dollars, and to release all claim for interest, damages, &c.

2. The Government is to release all claim upon all other funds seized or attached, and to discontinue all civil proceedings pending, but the proceedings in Virginia to be left pending until Mr. Ottman can have an opportunity to make arrangements with claimants who will assert their claims after the Government claim is discharged by the payment to it by the agreed sum of \$12,700.

3. The criminal proceedings will of course be dismissed, as all agree that they cannot succeed. This should be done as a matter of justice, independent of any compromise as to the money claims.

If you ratify this arrangement I suggest that to carry it out you direct the district attorney of the District to dismiss all civil and criminal proceedings in this district, and that you request the Commissioners of the District to surrender the money in their charge, except that \$12,700 thereof should be paid into the Treasury of the United States.

A letter should be addressed to the district attorney having in charge the suit in Virginia to dismiss that suit, but that money be delivered to Mr. Ottman for use when he shall so desire.

If this is done the matter will be closed, and, under the circumstances, greatly to the advantage of the Government in my opinion.

Your obedient servant,

GEORGE BLISS.

HON. BENJAMIN HARRIS BREWSTER,
Attorney-General.

THE ARLINGTON,
Washington, D. C., June 7, 1882.

DEAR SIR: The adjustment authorized by you in the case of Ottman has been carried out, and there has been deposited \$12,700 in the Treasury to the credit of the United States. I inclose you the certificate thereof.

I also transmit a release and transfer executed by Ottman.

Your obedient servant,

GEORGE BLISS.

Release not inclosed; will be sent.—G. M.

HON. BENJAMIN HARRIS BREWSTER,
Attorney-General.

(Duplicate No. 26407.)

*Copy of certificate.*TREASURY OF THE U. S.,
Washington, D. C., June 6th, 1882.

I certify that Attorney-General of the United States, has this day deposited to the credit of the United States Twelve thousand seven hundred Dollars on account of Hallack defalcation of June 2d, 1875, with personal credit to F. E. Spinner, State Treas. United States, for which I have signed duplicate receipts. \$12,700. The duplicate to be retained by the party making the deposit.

JAS. GILFALLON,
Treasurer U. S.

ADDITIONAL CORRESPONDENCE RELATING TO THE CASE.

DEPARTMENT OF JUSTICE,
Washington, June 3, 1882.

SIR: Referring to previous correspondence concerning the case against W. H. Ottman, I have to inform you that George Bliss, esq., to whom the case was committed as special counsel for the United States, has this day reported to this Department that a settlement has been reached, which settlement I have ratified and approved.

(1) According to the settlement, Mr. Ottman is to surrender to the Government a sum equal to the amount secured by the attachment in Virginia, to wit, \$12,700, and to release all claims for interest, damages, &c.

(2) The Government is to release all claim upon all other funds seized or attached, and to dismiss all civil proceedings pending, except the proceedings in Virginia, which are to remain for such time as may be necessary for Mr. Ottman to make certain arrangements with claimants, after the claim of the United States is discharged.

(3) All criminal proceedings are to be dismissed at once—all agree that they cannot succeed. Accordingly you are hereby directed to dismiss all civil and criminal proceedings against Ottman in this District.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
*Attorney-General*GEORGE B. CORKHILL, Esq.,
*U. S. Attorney, Washington, D. C.*DEPARTMENT OF JUSTICE,
Washington, June 3, 1882.

GENTLEMEN: The cases of the United States against W. H. Ottman, both civil and criminal, have been settled. The terms of settlement, so far as you need be cognizant of them, are as follows:

(1) Mr. Ottman is to surrender to the Government a sum equal to the amount secured by the attachment in Virginia, to wit, \$12,700, and to release all claim for interest, damages, &c.

(2) The Government is to release all claims upon all other funds seized or attached and to dismiss all civil proceedings pending except the following in Virginia, which are to be left pending until such time as Mr. Ottman can have opportunity to make assignment with claimants who have claims after those of the Government.

(3) All the criminal proceedings against Ottman are to be dismissed.

According to this arrangement you are requested to surrender to Ottman the money in your charge, \$12,700, which should be paid into the Treasury of the United States.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

The COMMISSIONERS OF THE DISTRICT OF COLUMBIA.

DEPARTMENT OF JUSTICE,
Washington, July 6, 1883.

SIR: In reply to yours of the 30th ultimo, which refers to a bill in equity pending at Alexandria, Va., against W. H. Ottman, and incloses correspondence betwixt yourself and the United States attorney for Virginia in the same connection, I have to say that I had supposed that the office of the latter contained information of the arrange-

ments made in June, 1882, on the behalf of the United States with Ottman in that regard. Upon the 2d of that month a letter, of which I now inclose a copy for yourself, was transmitted by me to Mr. Wise, at that time United States attorney for Virginia.

The direction therein, to make no entry, for a time, of such arrangement upon the record of the court, of course did not affect the obligation of giving fit answer to any inquiry thereabouts which might be propounded in the regular course of business.

Inasmuch as the United States put up no further claim under the above bill, it seems to be, of course, that any one interested therein may apply to the court and obtain corresponding *entries* upon the record.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

The SOLICITOR OF THE TREASURY.

DEPARTMENT OF JUSTICE.
Washington, June 3, 1882.

SIR: In the cases against W. H. Ottman a settlement has been arrived at. In accordance with the terms thereof Ottman is to surrender to the Government a sum equal to the amount of the attachment in Virginia, to wit, the sum of \$12,700, and to release all claims for interest, damages, &c.

The Government is to release all claim upon all other funds seized or attached, and to dismiss all criminal proceedings except those in Virginia, which are to be left pending until Mr. Ottman can have opportunity to make arrangements with claimants who have claims subsequent to those of the Government.

You will please act in accordance with the terms of this arrangement, as far as the proceedings in Virginia are concerned.

Very respectfully,

BREWSTER,
Attorney-General.

JOHN S. WISE, Esq.,
United States Attorney, Richmond, Va.

[Telegram.]

ALEXANDRIA, VA., *July 7, 1883.*

HON. B. H. BREWSTER,
Att'y-Gen'l U. S., Washington, D. C.:

Your letter of June 3d, 1882, to my predecessor, with reference to W. H. Ottman cases, has this day been presented to me, with request that I shall dismiss case. I have also letter of 29th of June last from solicitor directing me to prosecute case. What shall I do? Has the money been paid? What about costs? Judge wishes to adjourn to-day.

EDMUND WADDILL, JR.,
U. S. Att'y.

[Telegram]

ALEXANDRIA, VA., 9th. (Received at 10.57 a. m. July 9th, 1883.)

HON. B. H. BREWSTER, *Att'y Gen'l, W., D. C.:*

Please answer my telegram of Saturday. If the matter is not settled to-day a settlement which Ottman has made with other claimants of the fund will fall through.

EDMUND WADDILL, JR.,
U. S. Att'y.

DEPARTMENT OF JUSTICE,
Washington, July 9, 1883.

SIR: Replying to your telegram of the 7th instant and this date, you are instructed to dismiss civil suits now pending in the U. S. cir. court at Alexandria, Va., upon defendant's paying all costs, because, as I understand the report of Mr. Bliss, upon the faith of which the case was settled, all the moneys were to be released except a sum

equal to the amount attached in Virginia, about \$12,700, which amount, I am informed by the Treasurer, was paid into the Treasury 6th of June, 1882. Because this money, which was attached in Virginia, has been assigned by Ottman, prior to this settlement, it was left in that condition to be paid over to the assignee, a sum equal to that being paid into the Treasury, viz., \$12,700, as above stated.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

EDMUND WADDILL, Jr., Esq.,
U. S. Attorney, Alexandria, Va.

[Telegram.]

DEPARTMENT OF JUSTICE,
Washington, July 9, 1883.

GEO. BLISS,
160 Broadway, New York:

Was \$12,500 all the Government was to have in the Ottman case, or was it also to have the \$12,500 in Alexandria? There is an impression that the United States was to have both. Please answer immediately, as court at Alexandria adjourns to-day and the United States attorney wants to dispose of the case.

BREWSTER,
Attorney-General.

WASHINGTON, *March 15, 1884.*

WILLIAM A. COOK recalled and further examined.

By the CHAIRMAN:

Question. Will you please state to the committee what you know in regard to the so-called Ottman case, the case of the United States *vs.* W. H. Ottman, which was pending for some time in the District of Columbia, and afterwards compromised?—Answer. I was employed as one of the attorneys of Mr. Ottman. Mr. R. T. Merrick was first employed.

Q. You were an attorney for the defendant?—A. Yes, sir.

Q. State first, if you please, the nature of that complaint and the indictment.—A. There were three indictments found against Mr. Ottman—one, 10917, for receiving United States notes knowing them to have been stolen.

By Mr. VAN ALSTYNE:

Q. About what was the amount alleged to have been stolen?—A. \$47,197.65. The second indictment was 10924, for receiving United States notes knowing them to have been embezzled. The difference was as respects their being stolen or being embezzled. The third was 11704, in which he was charged with larceny and receiving stolen and embezzled goods and property.

By Mr. FVAN:

Q. They all grew out of the same subject-matter?—A. All grew out of the same subject-matter.

By the CHAIRMAN:

Q. At what term of the court were those indictments found?—A. I do not remember the exact term, it is so long since. The numbers will determine that. I think in June or October term, 1875.

Q. What was done, so far as the court was concerned, in regard to the trial of this case?—A. There were two trials. The first was on indictment No. 10917.

By Mr. VAN ALSTYNE:

Q. Was any of the money supposed to have been found?—A. Yes, sir.

Q. Can you state the amount?—A. I can. There was a package obtained, supposed to be money that was stolen, which embraced about \$19,000. It was obtained from a restaurant on Seventh street, where it had been deposited by Mr. Ottman, and was dug out by the detectives.

By the CHAIRMAN:

Q. Were there any other funds found in Alexandria?—A. There were funds deposited by Mr. Ottman in Alexandria, and those funds were attached as his property.

Q. How much in all did the Government get possession of and attach on account of the money that was stolen from the Treasury?—A. In Alexandria, they attached \$14,500. Then they obtained the \$19,000 that was in the package I have mentioned. And there were some other amounts that I do not remember accurately that were obtained.

Q. How much in all did the Government obtain by seizure?—A. The amount that they seized was probably altogether \$40,000, or perhaps \$45,000.

Q. The Government lost how much?—A. The Government lost all but about \$12,000.

Q. How much in the first place?—A. About \$48,000. I am glancing at a statement from me published in the Evening Critic and in the New York Post some time ago, and I procure these figures from those sources.

By Mr. VAN ALSTYNE:

Q. In addition to that was there not \$10,225 found on the person of Ottman which was claimed by the Government?—A. There was some found on him.

Q. And about \$4,000 found on another person to whom it was alleged Ottman had delivered it?—A. Yes.

Q. That is in addition to the other sums?—A. Yes, sir. And then there was some deposited in Riggs' Bank, and he had when arrested a deposit certificate or check or draft, and that went to one of the attorneys.

By the CHAIRMAN:

Q. The two trials, I believe, resulted in disagreements of the jury?—A. Yes, sir. In the first trial the jury stood, as we gathered afterwards, seven for acquittal and five for conviction. In the last there was one in favor of conviction; he was an unyielding, irresistible colored man; he "hung" the jury.

Q. Have those indictments been nolle prossed since?—A. They have; the records of the court so show.

Q. When were they nolle prossed?—A. I think only a month or two ago; a short time since. It may have been longer.*

Q. Were any civil suits instituted to recover this money?—A. There was one civil suit instituted here, and there were civil suits instituted in Virginia. The civil suit here was 14481.

Q. Against whom was that suit commenced?—A. That was an action instituted for money had and received and illegally obtained; that was against Ottman, and, as far as it progressed, it was decided in favor of the United States up to the time of settlement. I might give a reference. In 3 McArthur Rep., p. 73, the proceedings and decision in an attempt made on behalf of Ottman to quash the attachment will be found.

* The record shows it to have been November 23, 1883.

Q. Did they proceed to judgment?—A. No, sir; that was never finally disposed of.

By Mr. FVAN:

Q. Was it a plea in abatement or just a motion to quash?—A. It was a motion to quash the attachment, which the court decided could not be done. And under that attachment, I do not know the amount, but some of Ottman's property was obtained. Until the time of the compromise of the case, the suit in Alexandria remained undetermined.

Q. Has that now been settled?—A. It was embraced in the compromise that was made.

Q. Just explain what compromise or adjustment was made of these civil suits.—A. That question, Mr. Chairman, I cannot answer. I was entirely ignorant of the fact of any of the cases. They were carried on and concluded without any consultation in any form with me, or notice to me.

Q. Did you represent Mr. Ottman in the compromise?—A. I did not. He was represented, so far as my knowledge extends, chiefly by Richard Crowley, of New York.

Q. What position in the governmental service did Mr. Crowley occupy at the time?—A. I do not know. He was a member of Congress at one time.

Q. He was a member of the last Congress?—A. Yes, sir. He came into my office some time (I am not sure of the date) in the fall of 1881. He was a stranger to me, but came, if I remember correctly, with a note from Mr. Ottman, stating that he had engaged him to act in his case. Mr. Crowley first sought information from me by various inquiries, which I gave to him, and after I had explained the cases fully to him I observed that I was of the opinion that he was engaging in a difficult, delicate, and perhaps hopeless task; that I could not see how the cases could under the law be compromised in the attitude in which they then existed.

Q. Explain the difficulties that occurred to you.—A. Yes, sir; but perhaps I had better first finish the conversation with Mr. Crowley. He then stated that he was aware of that fact, but that he thought he had a position or influence enough to enable him to secure an adjustment. Now, the difficulties to which I referred were these, and to bring them out clearly will require a reference (which shall be as brief as possible) to the law. I have said that when Ottman was arrested there was a package of \$19,000 or more obtained by the detectives.

Section 408 of the Revised Statutes, in relation to the District of Columbia, and in relation to stolen, lost, or abandoned property, provides, among other things, that the property alleged or supposed to have been criminally obtained, and which shall come into the custody of any member of the police force or the criminal court, shall be placed in the custody of the property clerk.

Section 414 declares that stolen property or money taken from any person arrested, or which is supposed to be the proceeds of crime, shall be returned to the person from whom taken only on a written order of the court, after the evidence, that the person arrested is innocent, or that the property rightfully belongs to him; then that it shall be delivered to the accused person himself, and not to any attorney, agent, or clerk of the accused person.

Section 431 provides that it shall be unlawful for any private detective, or any member of the police force, or for any other person to compromise a felony, or any other unlawful act, or to participate in, assent to,

or assist with any person suspected of crime to escape a full judicial investigation by failing to give knowledge of facts or reasonable cause of suspicion, or by withholding information relative to the charge or suspicion from the proper judicial authorities, or in any manner to receive any money or any other compensation from or on account of any person arrested or subject to arrest for any crime or supposed crime. And it is declared that violations of any of these provisions shall be deemed as compounding a felony; the punishment to be the same as provided by law for aiding criminals to escape the hands of justice.

Now, it was with reference to those clear and distinct provisions of law that I stated to Mr. Crowley that I was unable to conceive how there could be a legal compromise of the cases. I need not make any comment on the law, because that is your province and not mine.

Q. What was the condition of these cases prior to this compromise?—

A. The criminal cases stood open upon the docket so that a third trial could have taken place. The third trial would probably have been more unfavorable to Mr. Ottman than the previous trials, for there was, to my personal knowledge, additional facts that could have been ascertained, and there would have been a breaking of the ties of friendship between Ottman and some other persons who had co-operated with him in the former trials, from whom fresh information could have been obtained. Whether others knew that, I do not know. My relation would not allow me to so state, still being the attorney of Mr. Ottman. The civil cases only remained to be pressed, and a judgment could unquestionably have been obtained. The difficulty in the trial of the criminal cases arose from the fact that the rule of law, which you gentlemen so well understand, required proof that left no reasonable doubt of guilt, while the civil cases were unembarrassed by that rule, and only required a mere preponderance of evidence. I conducted the examination in one or two trials, especially of the officers of the Treasury Department. They swore with considerable certainty that the money (\$19,000) produced was money which they believed had been put up in a package for the Park Bank of Boston, if I remember correctly; and on cross-examination I pressed the witnesses on that point, and took up each separate note, presenting it and asking them, "Can you now positively swear that that was one of the notes?" The answer was necessarily a negative, although there was no doubt in the minds of the witnesses that it was, and it was that chiefly that prevented a conviction—not exclusively, but chiefly. Now, in a civil case, that strictness and severity of proof would never have been required. I have never had any doubt of what the result would be in the civil cases, and in corroboration of that I declined to enter into the civil suits. Mr. Merrick and the late Senator Carpenter appeared in them. I told Mr. Ottman I would defend him on the indictments, but I would not appear in the other cases.

Q. There was then clearly a preponderance of evidence of the fact that this was the actual money that had been stolen from the Treasury?—A. There was no doubt about that. There only remained a question of doubt in the criminal case. That was all.

Q. The Treasury officials, as I understand you to say, recognized the original packages, as they believed?—A. Yes, sir.

Q. There could be scarcely any doubt that the money found on Ottman and attached at Alexandria and that found in the restaurant here was actually the money stolen?—A. Yes, sir; and from personal conversation and knowledge, I can have no doubt that Mr. Ottman would

have been willing to compromise the case by having a *nolle prosequi* entered in the civil suits. I am sure at one time that was his disposition.

Q. Have you any knowledge of the manner in which the settlement was made?—A. Not the slightest. I received no portion whatever of the proceeds of the settlement. My information would conduct me to the conclusion that Mr. Ottman received \$4,000 or about that sum, and that the balance was divided up among persons who in the settlement were to a great extent invisible.

Q. Were you able to discern who they were who received any portion of this money other than Ottman?—A. It was said that Mr. Richard Crowley received a considerable portion. It was said at one time, it may be wholly incorrect, but it was a current rumor—such as attorneys gather in their offices or in consultation—that Mr. Bliss got \$1,000; not as a fee, but it was said to have been pressed upon him. However, that may not be at all correct. It was also said that Mr. Merrick obtained some of it, but of that I have no knowledge whatever. I presume there must be a receipt somewhere.

Q. Do you know how much was deposited in the Treasury of the United States?—A. I think it was \$19,000. It was the amount obtained from Ottman.

Q. I mean how much went into the Treasury of the United States finally?—A. Oh, I do not know excepting by a current rumor. Every one connected with the case was consulted in the settlement but myself and Mr. Carpenter, who was dead.

By Mr. FVAN:

Q. How much did the Government get in that compromise?—A. I have been informed that it got about \$12,000. And the idea that I had all along was that the law to which I have referred was really prohibitory against any such settlement in such a case. Besides, they could have attached that money as it existed in the hands of the authorities or obtained a verdict for it in that form.

The CHAIRMAN. In order to explain the settlement I will put in evidence the report of Mr. George Bliss with relation to the settlement of cases pending against W. H. Ottman in the eastern district of Virginia.

By the CHAIRMAN:

Q. It seems, according to this report, that the Government received \$12,700. Now, what became of the rest of the money?—A. I do not know. I never received any of it, nor was any of it ever offered to me.

Q. Then there was \$19,000 which was seized in a restaurant here which was a part of this same found?—A. Yes, sir.

Q. According to this compromise, that was released to Mr. Ottman?—A. Yes, sir; that was released to Mr. Ottman.

Q. Besides the attachments made of money found upon his person?—A. Yes, sir.

Q. How much would that leave to be divided among the attorneys of Ottman and himself?—A. I do not know how many he had engaged in securing the compromise.

Q. Do you know who were engaged in securing the compromise?—A. The only parties that seemed to be engaged distinctly, so far as my information is concerned, was Attorney-General Brewster, Mr. Bliss, and Mr. Crowley.

Q. Who on the part of Ottman?—A. Mr. Crowley, so far as my knowledge goes was the representative, and the only representative, in the settlement that was made by Mr. Bliss. I have no information that leads me to connect any other person with it.

By Mr. STEWART:

Q. Was he the representative of Mr. Ottman?—A. Yes, sir.

Q. Then he was not the representative of the Government, of course?—

A. No, sir; he was the only party that ever imparted any information to me of the intention to have a compromise effected. I had already stated, before you came in, that he came to my office and asked me for information about the case, and stated that he was authorized by Mr. Ottman to effect a settlement.

By the CHAIRMAN:

Q. In the report of Mr. Bliss to the Attorney-General, dated Washington, D. C., March 25, 1882, he says: "Nothing has ever been done in the civil suits beyond some litigation as to the attachments." Do you know whether that states all the facts or not in regard to the civil suits?—

A. Some of the property of Mr. Ottman was attached in a suit that was instituted in this District, and part of it, being perishable property, was sold. Of that I have personal knowledge, but what was the amount released, or what became of the proceeds I do not know.

Q. There was no doubt, then, but what the Government made a legal seizure of the sums of money to which I have referred?—A. There is no doubt about that, and the suits only needed to be pressed to a conclusion, in my opinion, to have obtained a judgment in behalf of the United States.

Q. For the whole amount that was found on Ottman and in bank at Alexandria and in the restaurant here?—A. Yes, sir; and apart from the way the law tied up the amount found in the package and found on his person, there was no difficulty in instituting a suit for money had and received for that amount, if the law was not sufficient to hold it.

By Mr. MILLIKEN:

Q. Was Mr. Ottman a man of any property outside of what he had received in this way?—A. No particular property.

By the CHAIRMAN:

Q. Was there any other evidence against Ottman than the testimony of Halleck?—A. There was some.

Q. Halleck was a clerk in the Treasury Department?—A. Yes, sir. In the first trial Mr. Halleck was not a witness. In the second trial he became a witness.

Q. What was the defense that Ottman set up?—A. That the money belonged to him personally; that it was not the stolen money. One of the chief questions involved was the identity of the money. It was unfortunate that the Government kept no schedule of the notes sent out or of their class, so that the officers could testify only from memory. That raised the question keenly as to whether the money discovered was the money that was actually stolen.

By Mr. VAN ALSTYNE:

Q. Did it appear on the criminal trial, by the testimony of Halleck, that he delivered large packages supposed to contain money to Ottman?—A. Yes, sir; he so testified.

Q. And that he obtained that money from some secret place in the Treasury building?—A. He was a clerk, and it was part of his business to engage in putting up packages or directing them. Packages were thrown in a mass on a desk and he took the package, or rather his friend Gates (mythical and shadowy) took the money.

Q. And, as he represented, deposited it in a secret place?—A. Yes, sir; in a secret place, in a closet, and afterwards it was taken from that closet.

Q. By Halleck?—A. By Halleck, in connection with Ottman—the two operated together.

Q. Would you feel at liberty to say whether you at the time believed the truth of the statement of that witness so far as the taking of this money from the Treasury Department was concerned?—A. I did not believe him. I did not believe that there was any person whom he designated as Gates, or if there was, it was some special friend of his whose name——

Q. That is not the question. Did you, as an individual, entertain a shadow of a doubt that the money which had been seized by the Government was in fact the money which had been taken from the Treasury Department?—A. My inner conviction was that it was the money.

By Mr. MILLIKEN:

Q. Could you have returned a verdict to that effect upon the evidence that was produced upon the trial?—A. In a civil suit I would have had no hesitancy at all, but in a criminal suit I could not. There was too much uncertainty.

By the CHAIRMAN:

Q. But the weight of evidence——A. (Interrupting.) The weight of evidence tended unquestionably to show that it was the money taken by Halleck out of the Treasury Department.

By Mr. MILLIKEN:

Q. Still there was a reasonable doubt?—A. Still there was a reasonable doubt.

By Mr. VAN ALSTYNE:

Q. That doubt was raised from the manner of your cross-examination of the witnesses?—A. Very largely and primarily.

By the CHAIRMAN:

Q. You have stated something in regard to the probabilities of the result of a third criminal trial.—A. Yes, sir.

Q. Did I understand that you thought the evidence would be stronger against Ottman in a third trial?—A. I had such information.

Q. Mr. Bliss in his report says:

I have no idea that on a third trial a conviction could be had. I have found no one who will say that he thinks so.

What have you to say about that?—A. He did not consult me. I had no knowledge of the proceeding at all.

Q. He states that Mr. Merrick took that view.—A. Well, Mr. Merrick primarily advised, when the case became intricate, Mr. Ottman to plead guilty and accept a proposition of the United States to give him a light sentence. I, at the request of Mrs. Ottman chiefly, antagonized that proposition, and stated that we were employed to defend within the limits of the law Mr. Ottman and not to aid him in pleading guilty.

Q. Mr. Bliss, in his report to the Government as to the civil suits, says:

As to the civil proceedings in the case pending in this District, the United States has realized on what property it attached and has no very marked interest to proceed with that suit, unless it could extend its attachment, either on mesne process or execution, to the \$19,500 seized by the police. Assuming that it could do this, it could only hold it by proving in that suit what it has failed to prove in the criminal suit.

H. Mis. 38, pt. 3—2*

Is that your understanding of this?—A. No, sir. There could have been additional information procured.

Q. Was it necessary to prove his participation in the stealing?—A. No, sir; not at all.

Q. The simple question was whether this was the Government's money?—A. That was the simple question.

Q. He might have been an innocent holder of it, and yet have had to pay it over?—A. Yes, sir. The facts as to his possession of it would have become important.

By Mr. MILLIKEN:

Q. Do you think there was evidence which would have identified that money as the actual money taken from the Government?—A. In a civil suit I think the evidence was sufficient. The officers of the Government swore with sufficient positiveness, those engaged in putting up the packages, that it was the money—that that was their impression or conviction, but they could not identify any one of the notes.

Q. Would it not have been necessary in a civil suit, in order to recover that money, if Mr. Ottman was an innocent holder, to have identified it as the identical money?—A. It would have been necessary unquestionably to identify it as the money of the United States, but the point was that the evidence would probably have been sufficient where it was a mere question of the weight of evidence to have satisfied any jury.

Q. Does it not require pretty strong evidence to identify money—money which is changing all the time, and a thing so easily changed?—A. Certainly it does. It requires some evidence that is satisfactory to the minds of the jury.

By Mr. VAN ALSTYNE:

Q. But the measure of evidence is different in the two cases?—A. Essentially so.

Q. One is governed by a preponderance, while the other needs only to carry a conviction to the mind of the jury beyond a reasonable doubt?—A. Beyond a reasonable doubt, or it must be such as leaves no other reasonable hypothesis of an honest possession.

By Mr. MILLIKEN:

Q. Is it not your experience with juries that the amount of evidence it requires to insure a verdict in the one case and the other is usually about the same?—A. I think not. I have acquitted many men on that simple elementary principal of law.

Q. Don't you think that in this very case, or any other case exactly like it, where the question was one of identifying money, proving it to be the same money, the same bills that were taken, that if there was a doubt in the minds of the jury they would be liable to give the defendant the benefit of the doubt?—A. They might. But in view of the different quality, or rather quantity, of the evidence required, the conception I had of it was this: that considering the large amount of money, and considering the fact that civil suits could have been instituted and pressed, it ought to have been done.

Q. I am not asking what you as a lawyer, understanding of course very clearly the difference between the evidence required in civil and criminal cases, would have done, but what an ordinary jury would have been likely to do about it?—A. Perhaps my best answer to that question is one that I gave on this subject prior to your coming in. I was engaged to defend Mr. Ottman in the criminal cases. I declined to be connected with the civil suit, because I was of the opinion that in a civil

suit the verdict of the jury would be against Mr. Ottman. That was my conviction at the time.

Q. What was the amount of money for which you would have advised civil suits to have been brought?—A. About \$19,000 or \$20,000, perhaps.

Q. This money was held by Ottman?

Mr. FYAN. He has told us that it had been attached.

Mr. MILLIKEN. Now, here was \$19,000 which Ottman stated was his own property——

By Mr. VAN ALSTYNE:

Q. These suits were *in rem*, and he was only incidentally a party to the suits?—A. Yes, sir.

Q. The property was seized as the property of the Government?—A. Yes.

By Mr. MILLIKEN:

Q. But he claimed that this was his own money, this \$19,000?—A. He did.

Q. Now, do you not believe that an ordinary jury would require about as much evidence to decide to take that money from Ottman and give it to the Government as they would to have convicted him in a criminal suit?—A. I think not. There was another circumstance. There was a gentleman connected with the case commonly called Peg Leg Brown. He was indicted. Towards the termination of the second trial he was disposed to become a witness against Ottman, and, in point of fact, had received part of the money, taking it to Saratoga and other places, and passed it off, and he was prepared to become a witness.

By Mr. MILLIKEN:

Q. Was that fact brought to the attention of Mr. Bliss?—A. I do not know.

Mr. FYAN. I suppose that the whole tendency of this evidence goes to show that neither Mr. Bliss nor any other Federal officer had a right to compound a felony. Is that the object of this testimony?

The CHAIRMAN. That is it.

Mr. VAN ALSTYNE. And beyond that, that it was not a provident adjustment.

Mr. FYAN. Then the two objects in view are, first, to show that it was an improvident compromise, and, second, that they had no legal right to make it under any circumstances?

Mr. VAN ALSTYNE. Exactly.

By the CHAIRMAN:

Q. Mr. Bliss says in his report:

Having arrived at the conclusion that the Government cannot succeed in its suits' civil and criminal, I have been impressed by a strong reluctance to advise the absolute surrender of the money the Government holds; for, as I have already said, I believe it is a part of the stolen money, and I am unwilling to see such a total failure of justice as I believe would be involved in that course. I have therefore sought to see if, so far as the civil suits are concerned, some compromise could not be effected. I have been baffled in this attempt by the fact that a considerable portion of the money has, by assignment, passed from Ottman's control, and that the legal title to much of it is, subject to the claim of the Government, in other and *bona fide* holders.

Now could there have been any *bona fide* holder who had acquired title?—A. Certainly not; and there was no assignment prior to the seizure of the money by the attachments and detectives.

Q. Well, could there be any right which would enable them to set up the claim that they were *bona fide* holders when the Government

had attached this property?—A. No, sir; there could not be. And there was a record in the police department of the money being stolen.

Q. He says further:

Within a few days, however, I have been led to believe that if it were understood that the Government would take no action unless that course were pursued, an arrangement could be made by which, on the release of all its other claims, the amount attached in Virginia, about \$12,500, would be surrendered. This is the sum embraced in the proceeding in which no jury would be necessary, and is all that, in my opinion, the Government would stand the remotest chance of securing by litigation.

Is that your opinion?—A. If any person was acquainted with the Ottman case in all its ramifications from its inception to its close I certainly was. That conclusion is directly in antagonism to the views which I formed with regard to it. I believe that in the civil suits there could have been recovery, and I regarded the \$19,000 in the hands of the police department as bound up by the letter of the law, to which I have referred, or, if it was not, a suit could have been instituted which would have held it.

Q. Was not that \$19,000 in the original package in which it was taken from the Department?—A. It was mainly in \$500 notes, which was proved clearly to have been the kind of money that was put up.

Q. That was found in a saloon in this city?—A. Yes, sir.

Q. In whose saloon?—A. I do not remember at this moment.

Q. But it was proved that it was deposited there by Ottman?—A. Oh, yes.

Q. Do you remember the testimony of the Treasury officials as to whether that was or was not the original package?—A. I do not. But I remember that they gave the \$500 notes, and they testified that those notes were within the general numbers which they put up in the package.

Q. Did not the Treasury officials swear that that was the original package, and that those were the real notes that were taken from the Treasury?—A. I don't remember; I could not state definitely on that point.

By Mr. VAN ALSTYNE:

Q. Do you remember whether the jacket of the package was in court or not?—A. I do not remember.

By Mr. FYAN:

Q. Did Mr. Bliss originally institute these civil suits?—A. No, sir.

Q. Who did?—A. Mr. Wells, or Fisher, his predecessor.

Q. Was Mr. Bliss second in prosecuting them?—A. No, sir; he had no connection with them until he acquired it by virtue of his authority to compromise them.

Q. And that was all the connection he had with them?—A. That was all the connection he had with them.

Q. Do you know whether Mr. Wells approved of that?—A. I do not know.

Q. He is here in the city, is he not?—A. Yes, sir. He may have been spoken to; he had no doubt of the guilt of Ottman, not the slightest.

Q. I am speaking of the civil suits?—A. Yes, sir.

By Mr. MILLIKEN:

Q. How long ago did this occur?—A. I think it was in 1875.

By the CHAIRMAN:

Q. You were and are cognizant of all the material facts in this case?—A. Yes, sir.

Q. You have no doubt but what the civil suit for the recovery of the \$19,000 deposited by Ottman in that saloon here could have been prosecuted successfully by the Government?—A. I have never had any real doubt about it; the fact is that he never——

By Mr. FYAN:

Q. You do not think there is a bit of law in that opinion of Mr. Bliss in his letter that there was a *bona fide* holder?—A. No, sir; not in view of the facts.

Q. Your idea was that there was no such thing as innocent parties in reference to stolen property?—A. Not in this instance, certainly.

Q. Nor in any instance?—A. In any instance. That has been expressly decided.

By the CHAIRMAN:

Q. This was either Mr. Ottman's money or the Government's?—A. One or the other, according to the theory set up in the case.

Q. If it was Ottman's what right had the Government to take any of it?—A. None whatever.

Q. If it was the Government's money was there anybody authorized to make this compromise, or that could have been authorized?—A. I have already said that I believe the settlement was in direct violation of the letter and spirit of the law of this District in reference to compromising felonies.

Mr. FYAN. What I want to call attention to is this: Mr. Bliss gives as a reason for compromising these cases that the money had passed into the hands of innocent parties. Now I say, on the assumption that that money had been stolen from the Government, that there was no such thing as innocent parties.

The WITNESS. That is my assumption, as the facts or cases stood.

By Mr. MILLIKEN:

Q. Why could there not be an innocent party?—A. It was stolen property.

Q. Supposing it was, he might receive it innocently?—A. Yes; but you could recover the money.

Q. But you took the ground that there could be no innocent party?—A. I mean so far as respects the money is concerned taken from Ottman or which had been attached by the United States there could be no *bona fide* holders. I did not intend to speak generally.

By the CHAIRMAN:

Q. In order that there may be no misunderstanding, I will read again what Mr. Bliss says:

I have been baffled in this attempt by the fact that a considerable portion of the money has, by assignment, passed from Ottman's control, and that the legal title to much of it is, subject to the claim of the Government, in other and *bona fide* holders.

Now regarding it as stolen property?—A. To respond to the question in another form, I do not consider that the assignment conveyed any title whatever.

Q. Could there be a *bona fide* holder of property that was already attached as stolen property with notice to all the world?—A. Certainly not. In addition to the first principle there was the notice by the institution of the suits, and by the records of the police department, that the money was regarded as stolen from the Government. I refused to take an assignment of a dollar of it. I never received a dollar in the case. I am the one attorney in that case who failed to receive any fee.

Q. Did he offer to give you an assignment at any time?—A. He did, and I refused to take it. I told him I would not have a fee when there was a question as to whether the money was stolen.

Q. You did not think you would get a *bona fide* title?—A. I did not. Well, I thought that morally I was not entitled to take that money for a fee, and I think so now.

By Mr. FVAN :

Q. Do you know that it was understood between Mr. Bliss and this defendant that if he gave up this money criminal prosecutions were to be abandoned and nolle entered?—A. Yes, sir; that was a part of the agreement.

Q. How do you know that?—A. From the report of Mr. Bliss.

Q. That was never carried out until a month ago?—A. It was held back a considerable time. The records of the court will show when.

Q. I understood you to say that it was carried out about a month ago?—A. Yes, but it may have been before that. It was on November 23, 1883, as appears from the court record.

The CHAIRMAN. It was recommended June 3, 1882, by Mr. Bliss.

The WITNESS. It was simply substituting Mr. Bliss and these other parties in place of the ordinary proceedings in a court of justice and the ordinary provisions of law.

By the CHAIRMAN:

Q. Do you know any provision of law which authorized such a compromise?—A. I do not. I regard it as entirely extrajudicial and unauthorized—I might say, unprofessional too.

Q. Is there any other matter material to this case which you recall?—A. I do not think there is. I do not recall any, nor with regard to the other matter; but when I read over the evidence, with your permission, of the other witnesses, there may be some facts revived in my recollection, and, if so, I will come and ask permission to state them if they are of any importance.

The CHAIRMAN. There are a number of letters furnished by the Attorney-General at our request, some of which are material as explaining the nature of the settlement of the Ottman case. There is a letter on this subject from the Attorney-General, addressed to the Commissioners of the District of Columbia, which you have before you.

By Mr. MILLIKEN:

Q. Were there any other criminal cases against Mr. Ottman except the one tried?—A. No, sir; no others.

Q. Then before this compromise was effected Mr. Ottman was twice tried, and the Government had twice failed to recover a verdict?—A. Yes, sir.

Q. Do you know whether Ottman in the course of compromising this ever acknowledged his guilt?—A. I do not.

Q. Did you ever learn whether he did or did not?—A. I never had any conversation directly or indirectly in connection with the settlement with any person; and what occurred with me personally in defending him I would not be at liberty to state.

Q. Do you as a lawyer think that after the Government had had two trials and failed to recover a verdict if Ottman offered to pay \$12,000, rather than to be further prosecuted, claiming at the same time that he was innocent, that the settlement by the Government would amount to compounding a felony?—A. I don't know whether it would or not. The provisions of law to which I have referred seem to contemplate that there shall be no disposition except to the party himself, of money that may be taken from an individual alleged to have been stolen, unless the judge of the courts is satisfied of his innocence or unless there is proof that it rightfully belonged to him, in either a felony or misdemeanor.

Q. I understand from your testimony the case to be this: if I am wrong correct me. The Government claimed that Ottman was guilty?—A. Yes, sir.

Q. He claimed that he was innocent?—A. Yes, sir.

Q. The Government tried twice to convict him in two criminal prosecutions?—A. Yes, sir.

Q. In both suits it failed? Ottman then, rather than be further prosecuted, agreed to pay \$12,000, and the Government settled with him upon those terms?—A. The idea that I have of the law is this: That it is prohibitory of any compromise where a charge of felony exists.

Q. Although it has been twice tried?—A. Yes, sir; so long as the indictments remain undisposed of, there can be no adjustment and no compromise where the charge of felony exists against the individual, or of any other unlawful act.

By Mr. VAN ALSTYNE:

Q. If there was a confession on the part of the alleged criminal, would it be tolerable under any circumstances to compromise?—A. Certainly not.

By Mr. FYAN:

Q. Your idea is that when a charge of that kind is brought, it must be prosecuted to a termination or else a *nolle* entered?—A. One or the other. It must be absolutely abandoned before the party is entitled to receive the money, and that has been the practice of our court.

By the CHAIRMAN:

Q. And if there is a *nolle* entered he is entitled to all of it?—A. Yes, sir; and an order is made to return it to him.

Q. And the Government has no right to any part of it?—A. The Government has no connection with it at all. It is the act of the court.

By Mr. MILLIKEN:

Q. I understand, since I came into the room, that the position of Mr. Bliss was that while he believed Ottman to be guilty he believed that he could not prove him to be guilty, and choose to take what he could get.

By Mr. FYAN:

Q. How did you get the understanding that out of this money Ottman secured only \$4,000?—A. By various persons coming into the office and speaking of the compromise, some of them who had conversed with Mr. Ottman, as they stated to me, whether correctly or not, and that he had got only \$4,000.

Q. Then, in other words, the Government got \$12,500, Ottman about \$4,000, and the rest was distributed among those parties who made the settlement?—A. One way in which that came to me was, on one occasion the statement of Mr. Ottman, that he regretted it, but he could not afford to pay me a fee because he only received about \$4,000.

By Mr. MILLIKEN:

Q. Do you believe that Ottman told the truth in that case, or was he pleading an excuse for non-payment of your fee?—A. I had sent him a note stating that as the case was settled I would be glad to get a payment from him for my labors.

Q. You were attorney for Ottman?—A. Yes, sir; all through.

Q. Now, if Ottman had deliberately become the receiver of stolen goods, do you believe he would hesitate to lie to you about the amount which he received?—A. O, he may have lied; I would not place any

confidence in what Mr. Ottman would state at all, unless it was corroborated by circumstances or the testimony of others.

Q. Did you receive information so direct that under ordinary circumstances you could rely upon it that Ottman received only \$4,000? Did you get it from any one who was not connected with the fellows who received the stolen goods?—A. My information, I think, came from two persons—from Major Sweet, who had once been his attorney, and, I think, from Colonel Moore.

Q. Could any one have known how the stolen goods were divided except some fellow who was connected with the stealing, either directly or indirectly?—A. To which stealing do you refer, the first or the last?

Q. Either of them. I simply want to find out how much reliable testimony there is that Ottman received \$4,000.

By Mr. FYAN:

Q. Where does Mr. Richard Crowley live?—A. Somewhere in the State of New York.

Q. Is he a lawyer?—A. He is.

Q. Was he a member of Congress at the time he effected this compromise?—A. The date will show.

Q. Do he and Mr. Bliss live in the same locality?—A. They were intimate personal friends. I know personally that they were politicians together—New York politicians.

Q. Mr. Crowley never appeared as attorney in this case?—A. Oh, never.

Q. But he is the man, in your judgment, who effected this compromise?—A. I believe he did, and I believe it from his own statements, made in my office.

Q. And the relations between him and Mr. Bliss were very intimate?—A. Yes, sir. I ought to say that Mr. Ottman called into my office perhaps shortly before Mr. Crowley did, and stated to me that he had employed Mr. Crowley, and that Mr. Crowley would call to see me. After the compromise was fairly commenced Mr. Ottman never came near my office. I had no further knowledge of him or the transaction.

Q. Did Mr. Crowley, in the conversation with you, intimate how he could bring about this compromise?—A. No, sir; not beyond stating that he thought he was in a position and had influence.

Q. With whom?—A. He did not say with whom. I think I made the remark that it certainly would require influence to effect such a settlement.

Q. How long was this before the letter or report to the Attorney-General of June, 1883?—A. It was a considerable time.

By the CHAIRMAN:

Q. Mr. Crowley stated to you that he was the attorney for Ottman?—A. Yes, sir.

Q. And Ottman stated to you that he had employed Mr. Crowley?—A. Yes, sir. Ottman was the keeper of the bar at the Saint James Hotel in New York, and the employment was made there in New York.

By Mr. FYAN:

Q. As I understand, Mr. Crowley did not propose to settle this case by virtue of his character as an attorney, but by virtue of his influence with the parties with whom he was going before to bring about the compromise?—A. That was substantially the conception I gathered from what he said in the interview.

By Mr. MILLIKEN:

Q. It is not your conception that we want; we want what you know.

—A. Well, I will tell you what I know, and then, if it will assist any, I will give you my conception too, if you will accept it.

Q. Did Mr. Crowley tell you that he hoped to effect this compromise by virtue of his influence with the officers of the Government, or any of them, or anybody who was employed by the Government to prosecute this case?—A. It is difficult for me to remember the exact language, but I said to him that that was a task that I would not undertake—to settle the matter in that way.

Q. Were you and Mr. Crowley both attorneys for Mr. Ottman at the same time?—A. My original employment for Mr. Ottman still existed. That was to defend him in the criminal cases; that was the only employment I had.

Q. Were you still employed by Ottman at the time of this compromise?—A. I was employed by him up to the final disposition of the case, although I was not consulted.

Q. Then Mr. Crowley, at this time, was employed by Mr. Ottman to make this compromise?—A. So he stated.

Q. Then you were both attorneys for Ottman at the same time?—A. I think so.

Q. Now, I would like to have an answer to my question—as to what he told you?—A. What he said, I think, was, that he was in a position, or had influence sufficient, to enable him to effect a compromise.

Q. Did he tell you whether that influence was with the officers of the Government, or with the counsel of the Government, or with Ottman?—A. He did not. Nor did he state either, directly, whether it was his personal ability that he referred to, and influence arising from that.

The CHAIRMAN. No influence that he might have with Ottman would assist him.

By Mr. FYAN:

Q. Even if he had influence with Ottman that could not make a compromise with the other side?—A. No, sir.

By Mr. MILLIKEN:

Q. Let us see. In order to effect a compromise it was necessary to make both parties agree, was it not?—A. The inference I had was that the influence must be two-fold; first, to induce Ottman to place the case in his hands, and, second, sufficient influence with some one in the Government to secure the compromise.

Q. Yes, but may not the Government have been already prepared to compromise, and may not Mr. Crowley have referred to his influence with Ottman?—A. It may have been so.

By Mr. FYAN:

Q. Well, may not Mr. Crowley have had such influence with Mr. Bliss as to enable him to bring about the compromise?—A. He may have had.

By Mr. MILLIKEN:

Q. But is it to be inferred because Mr. Crowley said that he had influence sufficient to bring about a compromise that that influence was necessarily with the attorneys of the Government?—A. I cannot say. His statements to me were indefinite, but I had no doubt as to what he referred to, in my own mind.

By Mr. VAN ALSTYNE:

Q. Did the interview that he had with you at your office disclose the

purpose for which he came there?—A. He came there to obtain information from me to enable him to prepare the case and present it to the Government so that it might be adjusted.

Q. It was to become possessed of the facts of the case that he came there?—A. Yes, sir; that was it.

Q. Did you withhold your opinion of the force of the evidence as bearing upon the guilt of Ottman?—A. No, sir; I did not. I gave him an outline of the case, as I understood it.

By Mr. MILLIKEN:

Q. Did you give him your opinion of the case?—A. I stated that it was a case that required the greatest possible professional exertion to prevent a conviction—the combined efforts of Mr. Carpenter, Mr. Merrick, and myself.

By the CHAIRMAN:

Q. That was in the criminal case, but what about the civil suit?—A. The civil case I regarded as against Mr. Ottman from its inception.

By Mr. MILLIKEN:

Q. Yes, but did you tell Mr. Crowley so?—A. I do not remember whether I told him that distinctly or not.

By Mr. CRISP:

Q. Did your suggestion as to requiring influence to obtain that compromise refer to influence with the Government or to influence with Mr. Ottman?—A. My suggestion with regard to influence related to influence with the Government.

Q. Mr. Ottman was the defendant?—A. He was.

Q. And anxious to compromise?—A. It seemed so.

By Mr. MILLIKEN:

Q. Did Mr. Crowley make any suggestion to you with regard to having influence with the Government?—A. Never in terms. With me that was inferential.

Q. You inferred it?—A. Yes, sir; and I could not conceive of what value the influence would be, as he already represented Mr. Ottman with anybody but the Government.

By Mr. VAN ALSTYNE:

Q. Did Mr. Crowley intimate to you that if a compromise could be effected it was so much money saved?

Mr. MILLIKEN. To whom?

Mr. VAN ALSTYNE. In the interest of his client.

The WITNESS. That suggests to me that this remark was made, that "it would be better for Mr. Ottman to get what he could," I think that was the expression.

By the CHAIRMAN:

Q. Do you know what Mr. Crowley's relations to Mr. Bliss were?—A. I do, as we all gather up information with regard to the social position and political standing of others, and that was that they were intimate.

Q. Do you know what his relations were in a social way to Mr. Ottman?—A. Oh, there was no social relation whatever existing between them.

By Mr. MILLIKEN:

Q. Simply professional relations?—A. Professional relations.

By Mr. FYAN:

Q. Do you know what has become of this \$12,500 at Alexandria, Va.; who did get that?—A. I do not know.

Q. I believe that is the amount that was left to be divided between the Government and the outside parties, or the "*bona-fide* holders"?—

A. Yes, sir. Nor do I know who those persons were. It was attempted in court to ascertain where the entire sum went.

Adjourned.

WASHINGTON, D. C., March 19, 1884.

H. H. WELLS sworn and examined.

By the CHAIRMAN:

Question. Please state your age, residence and occupation.—Answer. I am sixty years of age. My residence is Washington, D. C. My occupation is that of a lawyer.

Q. Have you been at any time in the service of the United States?—

A. Yes, sir; twenty years and more in one way and another.

Question. In what positions?—Answer. I was in the Army between three and four years; I was United States district attorney for the eastern district of Virginia for three years; I was military governor of the State for between two and three years; I was district attorney of the United States for the District of Columbia for a little over four years, and I have received sundry and divers employments from the Government as special counsel.

Q. Were you district attorney of the District of Columbia during any part of the time when the case of the United States *vs.* Ottman was pending?—A. Yes. I was appointed district attorney and entered on the office on the 4th of September 1875. The Ottman robbery was committed in May or June, I think, before that, and I tried the case twice.

Q. Will you make a brief statement of the suits and prosecutions instituted by the Government in that case?—A. There were two attachment suits commenced, I think, by Mr. Wilson, who was special counsel employed by the United States before I came into the office, attaching some personal property and some real property. There were also some examinations had, perhaps one in the police court before I came into the office, and after I came in an indictment was found against Ottman charging him with the larceny, and, I think, an indictment charging him with receiving stolen goods, and an indictment against Benjamin Halleck for the larceny, and an indictment against a man named Brown, whose first name I do not remember, both for the larceny and the receiving. That is my recollection of the suits that were instituted.

Q. You say there were two trials of the criminal suits?—A. Yes; that is, two against Ottman.

Q. In which the jury failed to agree?—A. The jury disagreed in both trials. I think the first trial was in 1876.

Q. Was there ever any trial of the civil suits against Ottman growing out of that transaction?—A. There was a motion to quash the attachment on the ground that the United States had not given the bond required. That case went to general term, but it was decided adversely to their pretensions. It was held that the case was properly commenced.

Q. It was then ready for trial?—A. Yes, sir; on the attachment suit. The property was taken possession of. The real estate was found to be

incumbered for about its value. There was a pair of trotting horses that finally ate up themselves and a good deal more, and they were sold at auction. That was the end of the attachment suit, if I remember right.

Q. State the amount of the funds that were seized by the Government as having been stolen.—A. The amount of the robbery, if I remember, was forty-nine thousand or forty-seven thousand dollars and some hundreds, being a package made up in the Treasury Department for the Park Bank of New York. The circumstances attending the making up of that package were these: The bank had sent some mutilated or other currency to Washington to get new notes. The clerk who made up the package went into the vault on the morning that the package was made up and brought out a package of \$500 notes—\$50,000 or \$100,000 in \$500 notes; I cannot remember exactly. It seemed that there was a custom in the Treasury Department of that day in reissuing old notes, and this package of \$500 notes was in fact made up of old notes. The explanation was this, that a package of either \$100,000 or \$50,000, I do not remember which, had been sent to some bank in Boston; had been kept there some little time and returned from there without the notes ever being used. So when they took the package they said, "This is not absolutely a new package but the notes are practically new," and they counted out of it \$500 bills enough to make up the round sum of \$47,000, and then from other packages enough to make up the odd sum. The method of doing business was a package put up by one clerk, who made a little bill of it, so many notes of such a denomination and a wrapper put about it, and a memorandum of his put upon it. It was passed to another clerk, who verified the count and closed it up and put his seal on it. It passed through several hands in that way. At last the package reached the table or desk of a clerk named Halleck. It never was seen after it reached Halleck's desk, and he had performed his part in relation to the package. The loss was discovered immediately, of course, perhaps the same day, or within a day or two at any rate. Some investigations were set on foot for the purpose of discovering who the thief was. Halleck, I think, had been to New York—I am not quite certain about that, at all events, there was found in his pocket a little red book (which I do not see in this package of papers), and on one of the leaves, was in pencil, some figures showing the amount of notes stolen; there was a division made of it showing that a certain portion of it was probably going to somebody else. It was divided into certain parts. When Mr. Ottman was arrested there was found on his person a little note half the size, perhaps a quarter of the size, of a sheet of large letter paper, written by "C. Gates," in pencil. I do not see the note here, although it was here when I saw the papers last. And in that note, my recollection is that he speaks of a division being made and complains that it is time that the division was made. That was found in Ottman's possession. We then commenced pushing the inquiry in different directions, and at last Halleck made a confession, and that confession was said to have been voluntary and made to Mr. McDevitt, I think, one of the then detectives. Halleck was tried and convicted. A new trial was granted by the general term on the ground that the confession was never shown to have been absolutely free and voluntary. That was before the trial of Ottman. When we came to try the Ottman case we put upon the stand Halleck, who was used as a witness for the Government. He testified to the circumstances and to the manner in which the package was made up, and that the money was stolen by a man by the name of Gates. Since that they have made a change in the Treasury Department, but before that change there was no wire screen,

so that a person could get near the clerks. His testimony was that Gates put an iron hoop over the top of his desk and hooped up this package; that the money was taken to Mr. Ottman at his restaurant on the avenue, and Ottman took charge of it and undertook, in their parlance, "to shove it," or pass it off—to exchange large bills for smaller bills. Another piece of testimony in that connection was this, that Ottman, just a few days before his arrest, had gone to a German by the name of Welckener, a friend of his, and said that he had a package of valuable papers that he was very anxious to have placed in bank at Alexandria, Va.—insurance papers. Welckener did not happen to be in at the time, but the papers were left in the charge of his wife or somebody in charge of the establishment. That was Saturday, and they were thrown into a common pine desk where they remained until Monday morning. Ottman came to ask Welckener if the papers had been sent to Alexandria and he said no, he didn't suppose there was anything important, and he had let them stay. Subsequently that package was sent to the German-American Bank at Alexandria, of which Mr. Portner was the president. It was deposited with the president of the bank as a safe deposit. We obtained the testimony of a colored man of the name of Matthews, who was in the prison where Ottman was confined, who testified that Mr. Ottman came to him and said that he had a valuable package at Alexandria, and would give him \$5,000 if he would get that package, bury and secure it for him; and if he could not do that to destroy it, and he furnished a note to Matthews on the bank for the package. Matthews went there and the result was (I am not sure whether Matthews got it), but the result was that we got the package and on opening it it proved to be a box made by taking a piece of inch and a quarter pine and mortising out of it a hole large enough to put in without folding a bank note; then taking two of the pieces and in this opening thus made putting the money and then screwing them together. On getting this and opening it we found that it contained twenty-nine \$500 Treasury notes. The notes were kept of course in precisely the same order in which they were found, and on inspection we found, for instance, that the first note in the package had a little mark on it, No. 1; the next note under that was No. 5; the next note under that was No. 9, and so on. We discovered that when they print those notes in the Treasury Department a piece of paper is taken large enough to make four of them. They are printed at one stroke. The first note is No. 1, the next is No. 2, the next 3, next No. 4, and there are 100 of those perhaps; and after they are printed a machine cuts right through the whole of them, so that when you take them off they are No. 1, No. 5, No. 9. They lie together in that order. We found this package of notes lying in their regular order, portions of them, not all of them. Then, in addition to that, they have what are known as serial numbers, and we found those notes running in their serial numbers. Out of the twenty-nine notes, my recollection now is that there were eight or nine of the right serial numbers. That demonstrated to my mind, of course, that this package had never been distributed, because all the money in the world, after that package had been distributed and had gone into circulation, could never have put those notes back in that order. It was an utter impossibility. Then the position of the serial numbers was another point.

That bundle contained \$14,500. It was first put in possession of the property clerk, under a statute of the District of Columbia. All property supposed to be stolen is required to be put into the custody of the property clerk, who is an officer of the District of Columbia. Not feel-

ing it quite safe, I made suggestion that the package, after I had used it on the trial, should be deposited for safe-keeping in the Treasury of the United States, and it was so deposited. That, of course, accounted for only \$14,500 of the \$49,000. There was then arrested a man named Brown, commonly called "Peg-leg Brown," a one-legged man and a gambler, a not very reputable person, and we discovered that there had been some telegrams passing between Mr. Ottman and the man Brown, and in these books you will find receipts for the different telegrams. You should find the telegrams themselves among the papers. The nature of the telegrams showed that there was something quite out of the usual way passing between these two persons, one at Saratoga and the other at Washington. This was in the summer. On arresting Brown there was found on him either fourteen or fifteen hundred dollars, I do not remember which, in pretty large amounts. On going to the First National Bank at Saratoga we found that the same "Brown" had bought a draft on the First National Bank, New York, in favor of William H. Ottman, for \$2,500.

There was also another draft drawn by the same bank on the same bank on the same day for \$1,000, and in substantially the same words as the first one. We were able to show by Mr. Richards and another clerk in the bank at Saratoga, that those drafts were purchased by Brown, and paid for in \$500 bills. Of course, it was not possible to make any fuller description or proof of the notes. We traced Brown and found that he then went to Worcester, Mass., and there purchased another draft, dated on the 19th of July, 1875, drawn on the Fourth National Bank of New York, to the order of William H. Ottman, for \$550. I am not sure whether there was another draft or not.

By Mr. MILLIKEN:

Q. How much is that in all?—A. \$4,050. We found that those drafts were indorsed by William H. Ottman to Riggs & Co., of this city. We subsequently found that a man by the name of Proctor, who has since deceased, had been sent a day or two before Ottman's arrest, perhaps on the same day, my recollection is, with a draft or check, drawn by Ottman on Riggs & Co., for a large sum of money, and the proceeds of that check or draft were deposited by this man Proctor in the bank at Alexandria, and Ottman had paid Proctor some money, perhaps \$100, or something of that sort, for transferring the funds from one bank to the other. Ottman had also given Proctor one or two \$500 notes to get converted into other money. My recollection now is that we got \$1,100 from Proctor, part of the money that he had received from Ottman. Another one of the transactions was with a gentleman by the name of Bouton, General Bouton, who stated that Ottman met him some time in the summer and put into his possession twenty \$500 notes, possibly it was but ten. I think, however, it was twenty notes, amounting to \$10,000, and General Bouton took the notes to some broker in New York, perhaps a cotton broker in New York or Brooklyn, made the deposit there, and subsequently withdrew that money and paid it over to Ottman. We also proved that Ottman after this event went up to a town in Northern New York, I do not remember the name of it, perhaps Ogdensburg, and at a hotel where he registered for a day and a night he paid his bill by changing another \$500 note. He also exchanged a \$500 note with a gentleman on Pennsylvania, in this city, whose name I have forgotten. In that way we traced into his hands a very large proportion of all of the notes. Before the trial commenced an offer of compromise was made, a proposition was made to pay \$32,000;

that is, to deliver to the United States all the money that we had in hand that we had taken from the different persons, and also the money in bank at Alexandria, on condition that Ottman should be sentenced to jail for a period not to exceed twelve months, which was the longest period he could be sent for. When that was offered the Attorney-General declined to accept the offer.

Q. Who made that proposition?—A. It was made by Mr. Elliot, one of Ottman's counsel.

Q. Was it in writing?—A. No; it was a verbal proposition made to me in the hall of the criminal court a day or two before we commenced the first trial.

Q. Did you communicate the fact in writing to the Department of Justice?—A. I am not sure whether I did or not. I have never thought of it since, until this morning. My recollection is that General Devens was the Attorney-General at that time; I am not sure of that even. I know, however, that it was declined.

By Mr. MILLIKEN:

Q. It was communicated to the Attorney-General by you either in writing or orally?—A. Yes, sir.

By the CHAIRMAN:

Q. It was a proposition in good faith?—A. Oh, yes; it was made by a gentleman of the highest character. I believe I said I would accept the proposition if Ottman took an ordinary imprisonment in the penitentiary, which they declined.

Q. When was this offer made?—A. My recollection is that it was in 1876, before the first trial. I am not quite sure of the dates, yet that is my impression.

Q. Who were representing Ottman then as attorneys?—A. I think Mr. Merrick, Mr. Eliot, and Mr. William A. Cook.

By Mr. FYAN:

Q. And Mr. Carpenter?—A. No, sir; Mr. Carpenter came in later.

By Mr. MILLIKEN:

Q. What reason did General Bouton give for taking that money from Ottman?—A. He said that they thought of making some operations in stock or cotton in New York through some broker, and that Ottman had met him, and he took the money for that purpose; but no operation was made, and no order given for any such operation, but the money was withdrawn and returned to Ottman.

Q. He professed to know nothing about Ottman's connection with the robbery?—A. Yes, sir; he professed to be entirely innocent of any knowledge on that subject. General Bouton is still here but he is in very infirm health.

Q. State the result of the first trial.—A. The first trial occupied, I should think, ten or twelve days; I don't know but a little longer than that. It resulted in a disagreement. A second trial was had which occupied even a longer period, and in that case Senator Carpenter had become an associate counsel for Ottman, and took part in the trial. That also resulted in a disagreement. That was the last that was done in court in relation to that case during my incumbency of the office of district attorney. I left the office on the 12th of January, 1880.

Q. When do you say the last trial closed?—A. I am not able to say that. I should say it was in 1877 or 1878, but I cannot be positive, because I have not seen a paper in the case since the trial until to-day.

By Mr. VAN ALSTYNE:

Q. Mr. Cook testified here that he resorted to strategy in the defense of that case by taking these bills separately and putting the question direct to the witness whether they could swear directly that that was one of the identical bills stolen; was that his mode of examination?—A. I think it likely. They resorted to almost all modes.

Q. But he said he relied upon that more especially for an acquittal of the defendant, and he believed that that line of examination was the occasion of the disagreement.—A. Well, I don't believe any such thing. It was probably as weak as any of the defenses, because the notes that I speak of were kept and never changed from the order in which they were first found by us, and of course any clerk from the Treasury would say, "No, I cannot say that that is one of the notes. All I can say is that the notes in this original package embraced three series" (six thousands, two thousands, and eight thousands, for instance), and then he would say, "I find some of each of these series in the twenty-nine notes here. In addition to that I find the corresponding numbers, and I find them lying here in that identical order in which they were originally placed as 1, 5, and 9." I don't remember the line of cross-examination Colonel Cook speaks of.

Q. That would show the similarity; but he put the direct question as to *identity*, and they not being able to answer positively, it left the question open and in doubt, and he went to the jury upon that theory, that there was a doubt and that the accused should be entitled to the benefit of it.—A. I, of course, cannot say what his theory was, but that certainly was not the strongest defense in that case in my judgment.

By Mr. MILLIKEN:

Q. What was the strongest defense?—A. The uncertainty as to the truth of the statement made by Halleck. In the first place, it was insisted with immense vehemence and remarkable ability by Mr. Carpenter that Halleck was the thief himself, and that he was swearing to put this case onto Ottman; and then it was said that nobody could pick up the bills in the way in which Halleck described them to have been picked up. Halleck also testified that the bills after they left the Treasury Department were taken into one of the retiring rooms and concealed there in a very improbable place; and I should say that the worst thing there was the cross-examination of Halleck, which was a remarkable cross-examination; I have rarely ever seen a more able one.

By Mr. FYAN:

Q. There was no doubt in the mind of anybody but what Halleck was an accessory?—A. Oh, he was a thief.

Q. He admitted that?—A. Yes, sir.

Q. And you relied on him for conviction?—A. Yes, in part; not entirely.

By Mr. MILLIKEN:

Q. Why should Halleck, after he had confessed his own guilt, desire to implicate Ottman if Ottman were innocent?—A. I do not think he did. I think he would have been glad to let Ottman go. I do not think that argument was sound, but it was the one that was used.

Q. It produced an effect upon the jury, you think?—A. It did beyond question. I may mention one thing here without any impropriety, I think. Rumors came during the retirement of the jury from what seemed to be authentic sources as to the standing of the jury. Indeed, I think almost everybody connected with the prosecution understood

that the jury stood nine to three—nine for conviction and three for acquittal—until they had been out two or three days, and on the morning of the last day it was suggested that the jury did not stand quite in that way; and I was so well satisfied that I had been imposed upon up to that time that I said to the court I did not believe in keeping that jury out any longer, and they were discharged. The jury stood eleven for acquittal, when everybody supposed they stood the other way.

By the CHAIRMAN:

Q. You had full possession of all the facts in reference to this case?—

A. I believe I had.

Q. What was your opinion as to the guilt of the accused?—A. I had never any doubt upon that subject any more than I have of my own existence.

Q. What was your opinion as to the result of a civil suit merely to recover the money?—A. I had no doubt but it would result in the recovery of all the money that was in reach, all that they had attached, all that was in their possession, and all that was in bank at Alexandria.

By Mr. MILLIKEN:

Q. Why was not a civil suit instituted?—A. There was a suit instituted by the district attorney of the eastern district of Virginia, at Alexandria, in that court. My present recollection is that it was an equity suit under a peculiar statute that they have there, and the bank was made a party. It seemed that the bank stated that there was an assignment of that fund in the bank belonging to Ottman, and they therefore refused to pay the money over to the United States, and the suit was brought. In that suit it was competent to have put Ottman on the stand as a witness, and, of course, he would have had to tell where he obtained the \$500 notes, and he would have told. Then I think there was a stipulation entered into at one time (I am not quite certain of this, but I think I was told so by Mr. Wilson) by which the depositions taken in that criminal case might be used on the trial of the civil suit. And here was another important consideration, that if there was a doubt as to Ottman's guilt he was entitled, of course, to be acquitted in the criminal cases, while in the civil suit the case was to be determined upon the preponderance of evidence, a very important distinction.

Q. Would Ottman have been obliged to testify as a witness as to where he got those \$500 notes if his answer tended to convict him of crime?—A. Perhaps not; but there is a statute which provides that a man shall not be punished for any discovery he makes either before a committee of Congress or a court. But I assume that he would have had to say that he could not tell where he got those notes without implicating those parties, and I think that would have satisfied the judge very well under the circumstances and the testimony that it was part of this stolen package.

By Mr. FYAN:

Q. In other words you mean that the rule of law was that he would have been at liberty to answer, but not answer in the civil suit?—A. Yes, sir.

Q. Now, in this District is that permitted in a criminal suit?—A. Oh, yes; in a United States suit.

Q. But you cannot force him?—No; you can force him in a civil suit.

Q. That is, you can force him, but it is the duty of the judge to inform him that he is at liberty to decline. And your idea is that if he had refused to answer that would have satisfied the judge, and as it

was an equity case you think you would have gained it?—A. I haven't the slightest doubt in the world.

The CHAIRMAN. In connection with the statement you have just made, allow me to call attention to Mr. Bliss' report, page 673: "Mr. Wells says he has no idea a conviction could be had.

The WITNESS. Shall I tell all of that interview in the order in which it occurred?

The CHAIRMAN. Yes; I think you may make a statement, as you have been referred to for the purpose of justifying this compromise.

The WITNESS. Mr. Bliss called at my office. I cannot undertake to remember the date, but it was during the actual progress of the star-route cases, or just before they were about to resume one of the trials. I have known him for many years. Mr. Bliss said, "The Attorney-General has said to me that he is overrun with important matters, and that he is worried about a case—the Ottman case, and he has asked me if I, as his friend, without any compensation, would not look up that case and give him a report of what there was in it; that there had been a proposition to compromise," and he said, "I have come over to ask you about it. I have been to the District attorney's office, and I find that the case seems to have been prepared with the greatest care, and I would like to know what you think of it." My impression is that he asked me if I thought Ottman could now be tried and would be likely to be convicted. I expressed doubt as to whether he would be convicted at that date; either I said to him that I did not think it could be or would be. He asked me if I had any doubt about his guilt. I said not the slightest in the world. My recollection is that I said it was not a simple matter of opinion; but it was a matter of positive knowledge on my part. He asked me if I could state that knowledge to him. I said I could not. That I should decline to state it to anybody, because it was protected by professional confidence. He asked my opinion as to what would be the probable result of the civil suit. I said I had no doubt at all upon that subject, and I thought a day would be ample time to get a decree for the United States for the whole amount of money. I expressed it very strongly to him. I will not undertake to give the exact phraseology. He said, "Wouldn't you be met with the difficulty of identification?" I said, "Of course, but it is only a difficulty; it is not an insurmountable difficulty." And then I proceeded to narrate to him, even more fully than I have here, the different steps by which the identification could be established. I mentioned to him facts in relation to the notes themselves, how they had been pushed at every convenient season, the fact that Brown was to receive 5 per cent. for passing, the fact that Brown had bought drafts and those drafts had been taken in Ottman's name and had gone immediately into his cash account. He said, "As far as the twenty-nine notes are concerned, that may be so, but is not the difficulty in relation to the money in bank in Alexandria?" I said, "Yes, of course; but that seems to me almost as simple, because you can take first the \$500 bank notes and prove them into drafts all by Ottman's agent, he receiving 5 per cent. for making the purchase; those drafts subsequently, under Ottman's indorsement, going into Riggs & Co.'s bank, and from Riggs & Co.'s into the bank at Alexandria, and here is the assignment of that bank account to pay counsel for their services in his case. I think that is the substance of all that occurred between us. That is my recollection of it now. If there was anything else, I would be glad to have you call my attention to it.

By Mr. MILLIKEN:

Q. How long after this was the compromise made?—A. I do not know. I know nothing on that subject.

By the CHAIRMAN:

Q. When was this conversation that you had with Mr. Bliss?—A. I should say it was about February, 1882.

Q. Did you have more than one interview with Mr. Bliss?—A. No, sir.

Q. In his report Mr. Bliss says, "Mr. Wells, the former district attorney, seemed, on an interview, to think that, as the suit in Virginia was in equity, and therefore no jury would be needed, a decision favorable to the Government could be had there. But it would be necessary to prove Ottman's guilt in the same manner as in the other cases," I suppose referring to the criminal cases.—A. Does he put that language into my mouth?

Q. Look at the report for yourself.—A. (After reading the statement in the report of Mr. Bliss.) I do not understand that to be the rule at all. I understand the radical difference between the proof required in civil and criminal cases to be this, that if there is a reasonable doubt in the minds of the jury as to the full establishment of the guilt of the accused, they are to acquit, while the rule in a civil suit would be that the court or the jury are to decide on the weight of evidence. In the one case they can decide on mere preponderance, and in the other case no mere preponderance will justify a conviction.

By Mr. MILLIKEN:

Q. In your experience as a lawyer have you found that juries make that distinction in returning their verdicts?—A. I think they do almost without exception.

By Mr. FYAN:

Q. You regarded this case in Virginia as much the strongest case that you had, because there would be no jury at all?—A. Yes, sir; certainly.

Q. And for that reason it would be stronger than even a civil case that could be tried by a jury?—A. Undoubtedly.

By Mr. VAN ALSTYNE:

Q. And as to the case pending here you thought you had almost the direct proof of the identity of the bills themselves?—A. Yes, sir.

Q. Did you communicate to Mr. Bliss that there had been already a compromise proposed involving the payment of \$32,000, and that it was refused?—A. I am not sure whether I did or not. I should judge I must have done so, because I did not intend to withhold anything from him. I feel quite certain that I did, yet I could not say positively.

By Mr. MILLIKEN:

Q. Mr. Bliss was not in the case at the time that proposition was made?—A. He never was in the Ottman case.

Q. But he was not then employed by the Government in that matter?—A. Oh, no. That proposition was made in 1876, and this interview occurred in 1882.

Q. Do you feel certain that you remembered in 1882 to state that fact to Mr. Bliss that such a proposition had been made?—A. I cannot remember whether I did or not positively, but my best judgment is that I told him all that I knew about it.

Q. Might not you have forgotten that fact?—A. No, sir; I had not forgotten it.

By Mr. VAN ALSTYNE:

Q. Was it not such a prominent feature in connection with the proposed compromise that it must necessarily recur to your mind?—A. Oh, inevitably. There has never been a day from that to this that it has not been in my mind as to where it was made, who was present, and all about it.

By the CHAIRMAN:

Q. Did Mr. Bliss ask you as to the propriety of compromising the civil suits?—A. I do not think he asked me, "Can they be compromised?" He asked my opinion, and I told him they should not be.

Q. You were of the opinion that every dollar seized or attached by the Government could be recovered in a civil suit?—A. Certainly, and I told him so.

Q. Now, in connection with that, I call your attention to that part of his report which I have marked there. He there says, "We think it would be necessary for the Government to prove Ottman's guilty participation in the receipt of the money, in order to recover in the civil suit;" is that the way you understood him?—A. I think it is very likely that is what he said. I do not understand that to be the law.

Q. This is what he reported to the Attorney-General, that it would be impossible to recover in the civil suits unless he could prove Ottman's guilty participation in the theft?—A. I have no doubt he stated that; but I do not understand that that is the law.

Q. What do you understand to be the law?—A. What I understand on that subject is that if one comes into possession unlawfully of another man's money, he can be made to pay it over.

Q. Was there anything said in the conversation between you and Mr. Bliss to the effect that it would be impossible to recover this money in a civil suit unless the Government could prove Ottman's guilty participation in the receipt of the money?—A. I cannot say whether he said that or not. He may have expressed that opinion. I am rather inclined to think that he did, and that I disagreed with him.

Mr. FVAN. He expressed that opinion in his communication to the Attorney-General.

By Mr. MILLIKEN:

Q. Is it not true that the Government could have recovered that money from Ottman if it could have identified it, even if he had been an innocent holder?—A. Certainly. That is, if they could have identified the bills. And without identifying the bills the United States could recover whatever had been put into gold, because the right of the Government to recover for money had and received did not depend upon its being the identical money. I remember that Mr. Bliss suggested the question: How could the Government recover the \$14,000 of bills? I said, "Mr. Bliss, I have not thought as to the form of the action. I take it for granted, however, that the United States will retain the money until they find the necessary form of action." I remember that.

By the CHAIRMAN:

Q. It is also stated that the case against Ottman all depended upon Halleck's testimony. Did you regard the evidence as conclusive merely upon the identification of the bills themselves?—A. Yes; I did not

deem that Halleck's testimony was absolutely necessary. On the other hand, I have really questioned whether the case was not weakened by calling Halleck. We tried Ottman the first time without that testimony. It was possible always to make the use of it that was made of it in the cross-examination of Halleck on the second trial.

Q. At the time of the criminal trial, did the law permit the defendant to be sworn at his own instance?—A. On the 16th of March, 1878, the statute was passed which allowed parties charged with crime to testify in their own behalf. I think that was after the last trial.

By Mr. MILLIKEN:

Q. Did Ottman testify?—A. He did not.

By Mr. FYAN:

Q. It was evidently Mr. Bliss' judgment that the statute had been passed since the first trial, and he bases his opinion to the Attorney-General upon that. Now, in your judgment, would Ottman's defense have been better or worse if Ottman had gone on the stand?—A. Worse, almost infinitely worse.

By the CHAIRMAN:

Q. Mr. Bliss in his report states that "no man ever saw or heard of Gates; he is a myth. I have no hesitation in saying he never existed, and it is a physical impossibility that the money could have been taken in the manner Halleck says Gates told him he took it. In short, Halleck appeared upon the witness stand, a self-confessed recipient and taker of stolen money. He told a story which was, in one respect, the creation of the fabulous Gates, an untruth."—A. I think Mr. Bliss overstates that matter. In the first place, it was not a physical impossibility. There was a railing which was, according to my recollection, about so high [indicating about 5 feet], and when the man stood on the outside the package was on the other side as high from the floor as the height of the tables. There was a large number of packages one above another, tapering down so that they would not tumble over, and it was not a physical impossibility to bring one over in that way.

Q. Especially if a man was trained in that business?—A. Yes; if he was a thief and had the assistance of the man inside to help him. Now the strong circumstances tending to establish the existence of a participant in that transaction who passed under the name of "Gates" was this, that when Ottman was arrested in Washington there was found in his pocket the memorandum signed "C. Gates," in relation to this transaction. That was found to be a strong circumstance.

By Mr. VAN ALSTYNE:

Q. In regard to the testimony of Halleck, did it tend to establish any independent fact in itself other than the manner of the transfer of the money from the possession of the Government to Ottman?—A. Oh, yes. For instance, he stated that when the money was taken to Ottman that Ottman had in his cellar on the avenue, under his restaurant, a heavy bench upon which he piled up ale and beer in casks or half barrels, and that they turned that table over and fastened, by a nail or otherwise, this package on the bottom of that bench, and there it remained concealed. He told how long it remained there. He said that was regarded as the safest place, that all the searches that were made for the packages failed to discover it, because nobody ever thought of lifting off those barrels of beer and turning that bench over to look on the under side. Then he stated how the money was divided and how Ottman had given him money at the time.

Q. Were Ottman's premises ever searched for the money?—A. My recollection is that they were searched more than once, although I do not know. I was not in the case, you see, at the very outset. I think the larceny was in June, and I came into the case in September.

By Mr. FYAN:

Q. I think you have said you were United States attorney here for four years?—A. More than four years.

Q. Is there any law requiring the testimony to be written down before the grand jury?—A. No, sir.

Q. What was the rule?—A. Ordinarily it was not reduced to writing. The grand jury have a foreman and a clerk, and there is furnished to them, by the district attorney, a memorandum, a general history of the case, and they call the witnesses and the clerk makes brief notes of the testimony; sometimes they are very imperfect and sometimes they are spread out more in detail, and he keeps a book of minutes, and that book of minutes is very often——

Q. (Interposing.) If an indictment is found, what becomes of that evidence that is so taken down; is it turned over?—A. It is put into this grand-jury book and goes to the district attorney. There is, however, in that office another custom that obviates, to a considerable extent, the thing you are asking me about now. When the examination is held before the police court the district attorney takes down the testimony and makes a full report in writing in a volume that is kept, and when the district attorney goes to the grand jury he has that before him, and when he goes to the traverse jury he has that still before him.

Q. Was that case of Ottman tried before the police court?—A. My recollection is that it was.

Q. You were not district attorney then?—A. (After a pause.) Why I hesitate replying to that question is this: I went into the office in September, and I am pretty certain that I went into the police court one day with Mr. Wilson in that matter, so I suppose there must have been a part of this examination before the police court after I came into the office.

Q. Do you know what has become of that evidence?—A. No. There are a good many papers that are missing from the package now. For instance, this note of "Gates" about the division of the money.

Q. Is it the rule in all cases to hold the examination before the police court in the first instance, or can they go directly before the grand jury?—A. They can; but commonly a case is taken first before the committing magistrate—the police court.

Q. Even if the grand jury is in session?—A. Yes; there is no absolute necessity for it, but it is commonly done.

By Mr. MILLIKEN:

Q. And he binds them over to go before the grand jury?—A. Yes, sir.

By Mr. FYAN:

Q. I understand that this proposition, made by Mr. Eliot, one of the counsel for the defense, was to pay the Government \$32,000, provided you discharged Ottman from both the civil and criminal cases, and also that he would accept a term of imprisonment in the county jail not exceeding twelve months?—A. Yes, sir.

Q. And the only difference between you and Mr. Eliot in relation to that was that you insisted that, in addition to the payment of the \$32,000, there should be imprisonment in the penitentiary instead of the county jail; is that it?—A. All but one expression which you put in

there. I said, "I will recommend the taking all these amounts in full settlement, if the man goes to the penitentiary for a moderate term." But that was not *my* decision. The matter had been communicated to the Attorney-General.

Q. That they declined?—A. That they declined.

Q. Then, the difference was the difference between going to jail for twelve months and taking a moderate term of imprisonment in the penitentiary?—A. Yes.

Q. And your impression, although you have no distinct recollection of it, is that when Mr. Bliss came to communicate with you on the subject you informed him of these facts?—A. Yes, sir; I think so. I would not like to state positively, but my impression is that I must have told him that.

Q. Did Mr. Bliss communicate to you how it happened that he had become interested?—A. He told me it was simply a friendly act toward the Attorney-General; that the Attorney-General was overrun with business, and had asked him to look after this matter.

By Mr. VAN ALSTYNE:

Q. In connection with the final compromise, did anybody on the part of the Government apply to you for information touching this case except Mr. Bliss?—A. No, sir.

By Mr. FYAN:

Q. I understand you, then, to say that Mr. Bliss told you that the Attorney-General first called his attention to the case?—A. Yes.

Q. He did not say that he first called the Attorney-General's attention to it?—A. No, sir.

Q. But that he was in the case simply because the Attorney-General had called his attention to it, and said that he was so burdened with business that he wanted to get relieved of that Ottman case?—A. Yes, sir; and Mr. Bliss said that he would do it without any fee, and simply as a matter of friendship to the Attorney-General.

Q. Was any of this money sent to Saratoga, N. Y., or to Springfield, Mass.?—A. To Worcester, Mass., and Saratoga, N. Y. I have already mentioned that.

Q. Have you read Mr. Bliss's report on the subject?—A. No, sir; I declined to read or know anything about it.

Q. You do not know whether Mr. Bliss informed the Attorney-General of that fact?—A. I do not.

Q. But it was a fact that some of the money went to Saratoga, N. Y., and some to Worcester, Mass.?—A. Oh, yes, sir.

Q. What was done with it?—A. It was converted into drafts which were brought here and deposited with Riggs & Co. and the proceeds taken to Alexandria and put in bank there.

Q. Mr. Bliss in his report (and the chairman has called your attention to the matter) states that Halleck put off this crime on "Gates" and that "Gates" was a myth, a fictitious person that had no existence.—A. Does Mr. Bliss say he is a myth?

Q. Yes; that is the way I understand it. He says:

Halleck's story was, briefly, that he did not take the money, and knew nothing of its being taken, but that some ten days after it was taken one Gates, an utter stranger to him, approached him in a drinking saloon and, with very preliminary caution, in effect told him that he, Gates, stole the money and had hidden it in a water-closet in the Treasury building, and wanted Halleck's assistance to remove it. Halleck claims that he undertook the job, after consultation with Ottman, and that some days afterwards they got the money away and Ottman kept it, and that they promptly

cheated Gates of any share in it, an outrage which he seems to have endured quietly. No man ever saw or heard of Gates. He is a myth. I have no hesitation in saying he never existed, and it is physically impossible the money could have been taken in the manner Halleck says Gates told him he took it. In short, Halleck appeared upon the witness stand the self-confessed recipient and taker of stolen money.

Q. Now, do you know anything about Gates?—A. No; we never found "Gates." We tried faithfully, but we could not find him.

Q. What is your judgment, from your examination of that case, as to whether Halleck was telling a lie in relation to that man Gates, or have you any delicacy in answering?—A. It is a mere opinion. My impression is that there was a third person in that case; whether his name was Gates or something else I do not know. I have doubts as to whether or not the money was stolen in the precise way in which Halleck described, but there was never any concealment by him, after the first trial, of his guilt in connection with the larceny, although he did maintain that Gates was the man that hooped up the package.

Q. I understood Mr. Bliss to say in his report that if there had been a third trial Halleck was away off in the West and perhaps could not have been got here.—A. I know nothing about that. I understood that Halleck was in some Western State.

Q. He bases his suggestion or advice of a compromise on that ground. Now, if I understand you, you say that that would have cut no material figure; in fact, you think it would have come nearer conviction without Halleck than with him?—A. I am inclined to think, after the event, that putting Halleck on did not aid the case.

Q. And you think Halleck's absence would not have tended to defeat the case even if he had not come?—A. I do not think it would.

Q. Even if he had been present you would not have put him on the stand?—A. I think I would not.

Q. You think your case would have been stronger without his evidence than with it?—A. I think I should have preferred to rest my case on testimony independent of Halleck.

Q. Then if this compromise was brought about in consequence of the absence of Halleck you think it was a very serious mistake?—A. I am not going to pass an opinion upon other people in that way.

Q. But I am assuming that this compromise was brought about by reason of Halleck's absence. You say that if you had Halleck here you would not have put him on the stand?—A. I do not object to your conclusions, but I do object to stating my opinions.

Q. I am trying to get yours.—A. I object to stating them.

Mr. FYAN. The difference between the witness and me is that he has got a very finely established character as an attorney, so that his opinion will carry much weight.

The WITNESS. I am very much obliged to you.

Q. Mr. Bliss reports there was no proof of the numbers of these bills and nothing to indentify them; that the bills were not in consecutive numbers; how were those bills; were they not in 4's? Didn't the plate strike off four bills at a time?—A. That is my recollection, and that they struck off through a large number of sheets, then cut down, and took up that first package to make the package.

Q. That is to say, they were numbered 1, 5, 9, 13, 17?—A. Yes, sir.

By the CHAIRMAN:

Q. They did follow, then, in consecutive numbers?—A. A portion, not all of them.

Q. And you regarded that as conclusive that those bills had been

taken from the Treasury?—A. I did not see how there could be any reasonable doubt about it.

Q. Were not those enough to identify the accompanying ones?—A. It would seem to me so. I was very clear on that.

Q. If it was true in one thing it was true in all, and if false it was false in all?—A. Yes, sir.

By Mr. MILLIKEN:

Q. You say you advised the compromise by Ottman paying \$32,000, and you say also that the Government could have recovered, in your opinion, in the civil suits, and the whole amount was \$47,000?—A. Yes; but they could only have recovered what they had their hands on, and that amounted in the aggregate to between \$30,000 and \$33,000, which was the amount to be turned over.

Q. What had become of the remainder?—A. I could not tell about that.

Q. The Government never got hold of the remainder?—A. Oh, no.

By Mr. FYAN:

Q. Mr. Bliss says in his report that the stolen bills must have been returned to the Treasury for redemption. Did you not tell him that those bills had been returned by a Boston bank for smaller bills?—A. I mentioned the fact to him that it was proven on the trial, the circumstance as I have narrated it this morning, why they had paid out of what would ordinarily be denominated an old package, because they were unsoiled bills, and apparently as new as when first made.

By the CHAIRMAN:

Q. What do you know about any liens in favor of private individuals that may have existed as to the money deposited in Alexandria?—A. I only know that it was said by the bank (perhaps I may have seen the paper, although I do not remember it) that an assignment of the fund in bank had been made by Mr. Ottman for the payment of his counsel.

Q. Mr. Bliss states in his report to the Attorney-General:

I have therefore sought to see if, so far as the civil suits were concerned, some compromise could not be effected. I have been baffled in this attempt by the fact that a considerable portion of the money has, by assignment, passed from Ottman's control, and that the legal title to much of it is subject to the claim of the Government in other and *bona fide* holders.

Q. State who those holders were, if you know.—A. All that I know is that it was stated that there was an assignment of all the balances standing to his credit in bank at Alexandria for the balance of the fees of counsel.

Q. In the very case about which he was being tried?—A. Yes; and that I learned long before the first trial, and I said, "Well, gentlemen, we shall pay no respect to that."

Q. Did you regard those claims as such *bona fide* claims as to "baffle" the Government?—A. I do not think they were either *bona fide* or such as were calculated to baffle anybody.

Q. The parties who took those assignments knew or must have known when they took them that this was the same money that was alleged to have been stolen?—A. I could not say that.

Q. They were attorneys for the defendants?—A. Yes, sir.

Q. And the suit was for this very matter?—A. Yes, sir. I can simply say that they were his attorneys, and that he was indicted for the larceny of this money; what knowledge they had of that I do not know. This assignment was probably made before any indictment, almost im-

mediately after he was arrested. He was arrested and put into jail, and looked out for counsel and then for funds to pay them.

Q. Then the assignments at Alexandria were assignments to attorneys who defended him in the criminal suits?—A. I do not know which of the attorneys, but my impression is that it was the attorneys who defended him on the first trial.

By Mr. VAN ALSTYNE:

Q. Mr. Carpenter was not in the first trial?—A. No, sir.

Q. Did you instigate the attachment of the money?—A. No; that was done before I was district attorney.

Q. That was done before the preliminary examination was completed, then?—A. Yes, before it was completed.

Q. That was not a secret transaction?—A. What do you mean?

Q. The levying of the attachment at the Alexandria bank.—A. Oh, no.

Q. Known of all men?—A. Known by a good many. After the second trial, in which Mr. Carpenter did take a part, my recollection is that Mr. Coleman, who was his law partner, applied in the criminal court for an order directing some portion of this money to be turned over to Mr. Carpenter.

Q. The money in Alexandria?—A. I am not able to say whether it was the money in Alexandria, but some part of this money that the Government had control of, and that motion was resisted and the court promptly refused it.

Q. Mr. Bliss, in his statement in reference to *bona fide* holders or claimants to that money, says, further: "Within a few days, however, I have been led to believe that if it were understood that the Government would take no action unless that course were pursued, an arrangement could be made by which, on the release of all its other claims, the amount attached in Virginia, about \$12,500, would be surrendered."

Q. You being the district attorney at the time Mr. Ottman was tried, and most conversant with the facts and with the Government's case, both in the civil and criminal suits, is it unreasonable to suppose that your opinion would have been taken as to the propriety of compromising this case by the receipt of \$12,500?—A. I shall have to be excused from answering that.

Q. Was it taken?—A. It was not, except in the manner I have mentioned.

Q. I mean as to whether the Government should compromise this suit for \$12,500; was that advice ever given by you?—A. No, sir.

Q. If you had been consulted as to the propriety of compromising it, what would have been your opinion?—A. I should have recommended against it.

By Mr. MILLIKEN:

Q. Do you know why that compromise was made?—A. I do not.

By the CHAIRMAN:

Q. Do you know anything about the manner in which the funds were finally divided?—A. I do not.

Q. You only know that you did not get any of them?—A. I am sure of that.

By Mr. FYAN:

Q. You have testified here, if I remember your evidence, that the evidence before the jury was to the effect that this man Ottman had

made a little box to put this money in, and that it was deposited in the Alexandria Bank, and that he employed a negro named Matthews to go there and get that money, and offered to pay him \$5,000?—A. Yes.

Q. Did you communicate that fact to Mr. Bliss?—A. Yes, sir.

Q. The reason I ask you is because it does not appear in his communications to the Attorney-General.—A. Let me answer that a little fuller. The box was made at Ottman's request by a carpenter who was a witness on the stand, and testified that Ottman paid him a dollar for making it. And Matthews was on the stand, and I mention in tracing that money how the box was made, and the facts and circumstances.

Q. Yes, you mention it here. Did you mention it to Mr. Bliss?—A. Yes, sir; I did mention it to Mr. Bliss.

Q. Did that negro testify that Mr. Ottman told him when he got the package if he could not preserve it to destroy it?—A. Yes.

Q. When he got it out of the bank at Alexandria if he could not keep it to destroy it?—A. He was to bury it and conceal it in any way where it would be perfectly safe, and if he could not do that he was to destroy the package.

Q. That was \$14,500?—A. Yes, twenty-nine notes of \$500 dollars each.

Q. And you mentioned that fact to Mr. Bliss?—A. I did.

By Mr. MILLIKEN:

Q. You have testified that you advised a settlement with Ottman for \$32,000?—A. I said I would recommend the acceptance of a proposition that embraced the turning over of all the money; (we had an account of something like \$32,000 or \$33,000), he to plead guilty and take a moderate sentence of confinement in the penitentiary.

Q. Why did you make that condition that he should go to the penitentiary?—A. Because, on conference with the Attorney-General, we all agreed that the offense was so grave that we should stamp the man with all of the consequences of a confinement in the penitentiary.

Q. To have compromised without sending him to the penitentiary would have been compounding a felony, would it not?—A. No, it would not have been compounding a felony; it would be only giving him a lesser punishment. It is a little doubtful what is a felony in the District of Columbia.

By the CHAIRMAN:

Q. That implies a conviction for a felony?—A. But the answer was that we took a plea simply for grand larceny instead of making the offense a felony. The doctrine is that it is the place of the imprisonment that determines in the District of Columbia whether the offense is a misdemeanor or a felony.

By Mr. FYAN:

Q. What is the maximum punishment for offenses of this kind?—A. From three to five years.

Q. Not less than three or more than five?—A. Yes; not less than three; I may be mistaken about that.

By Mr. MILLIKEN:

Q. To have taken money in settlement without sending Ottman to prison at all, would not that have been compounding a felony in the District of Columbia?—A. I am not able to answer that question. It is rather an abstruse question of law.

Q. What does amount to compounding a felony?—A. The statute provides what shall be compounding a felony. If an officer fails to com-

municate what he knows in relation to an offense, if he fails to arrest, if he fails to produce the proof necessary to convict when he has it in his power, the statute says he shall be deemed to have compromised a felony. We had, of course, the common law in the District of Columbia as it existed prior to the session of 1801, and thereafter when we come to try a man we may try him under the common law of offenses, as you cannot do in the United States district court.

By Mr. VAN ALSTYNE:

Q. The proposition that was pending before you was not a compromise or compounding of a felony?—A. Oh, no.

Q. It is usual, is it not, where a party is indicted for a higher crime to take a plea for a lesser one?—A. Quite usual.

Q. That was never regarded as compounding the felony?—A. No.

By Mr. FYAN:

Q. Do you mean to say that sending a man to jail is convicting him of a felony?—A. I do not think it is. I would not agree to his going to jail, though.

By Mr. MILLIKEN:

Q. Was the settlement made by Mr. Bliss of this Ottman case the compounding of a felony in the District of Columbia?—A. I should say not, if you ask my opinion. I am clearly of opinion it was not.

By the CHAIRMAN:

Q. Was the larceny of the \$47,000 from the Treasury a felony under the District of Columbia?—A. It would be if he was convicted and sentenced to the penitentiary, beyond any doubt or question.

By Mr. VAN ALSTYNE:

Q. He was indicted for grand larceny?—A. He was indicted for a larceny of over \$35. We have no such thing as grand larceny except as is determined by the amount taken.

Q. And a conviction for an amount under that cannot be felonious?—A. Yes, a conviction and a sentence to the penitentiary.

Q. If he was sentenced only to jail it was simply a misdemeanor?—A. It would be practically misdemeanor, although at common law a larceny was always a felony.

By Mr. FYAN:

Q. Then, whenever you convict a man for stealing more than \$35 he goes to the penitentiary, and for less he goes to the county jail?—A. Yes; not to exceed twelve months.

By Mr. VAN ALSTYNE:

Q. And where the amount stolen is over \$35, and conviction follows, the court must either suspend the sentence absolutely or send him to the penitentiary?—A. To the penitentiary.

Q. And that would constitute a felony?—A. I mean to say that if there is a sentence to a penitentiary, where there may be hard labor, I have no doubt it would constitute a felony.

By the CHAIRMAN:

Q. Is your opinion that it was not compounding a felony based upon the fact that there was no felony?—A. Oh, no; I did not put that in that sense at all. It was not a compounding of the felony because it was not secret or done for a malicious or wicked purpose, but it was simply done for the purpose of making an adjustment.

Q. What would it be then if the Government accepted \$12,500 when they could have got as much as \$33,000 by going to trial?—A. Well, I should think it was very bad practice.

By Mr. FYAN:

Q. Suppose that a United States attorney, or a person employed by the Government to bring about such a compromise, should withhold information that was material in relation to the facts, from the officers who have the power to effect that compromise, what would you call that?—A. It would depend on the intent with which it was withheld.

Q. If he intentionally withheld that information for the purpose of bringing about a compromise less favorable to the Government than the Government was entitled to?—A. That question is too big for me.

By the CHAIRMAN:

Q. I will put it in this way. Suppose you are the United States Attorney and in possession of certain facts against me, I being indicted, and you, in order to bring about a compromise, make statements to the Attorney-General, and withhold certain material information which if he knew, you have reason to believe the compromise would not be effected?

Mr. MILLIKEN. And that being done with the intention of making a more favorable compromise for the defendant than the Attorney-General would make if he knew all the facts?

Mr. FYAN. Yes.

The WITNESS. Well, I think, gentlemen, I may say, without going too far, that each case of that sort must depend upon its own peculiar circumstances, and I could not undertake to say what it would be in all cases.

TUESDAY, *March 25, 1884.*

RICHARD CROWLEY sworn and examined.

By the CHAIRMAN:

Question. Please state your residence and occupation.—Answer. I reside in Lockport, N. Y.; I am a lawyer.

Q. During what time were you a member of the House of Representatives?—A. During the Forty-sixth and Forty-seventh Congresses.

Q. Your official term expired when?—A. The 4th of March one year ago this present month.

Q. State whether you were an attorney for William H. Ottman in the settlement of the suits of the United States against him.—A. I was attorney for William H. Ottman in certain cases pending in the courts in Washington and Virginia.

Q. State to the committee the facts which led to the compromise or settlement of that case.—A. Some time in the early spring of 1881 Mr. Ellison, who had been the engineer in charge of the machinery of the House of Representatives prior to that time, and who at that time I believe was the clerk of the Committee on Agriculture, came to me and said that Mr. William H. Ottman, a friend of his, desired to employ counsel in the place of Mr. Matthew H. Carpenter, to take charge of his cases pending in the courts of the United States in the District of Columbia and Virginia. I said to him that Mr. Ottman was a stranger to me, and that my engagements were such that I could not at that time give an answer whether I could accept his cases or not.

He made a brief statement of the cases. Nothing more occurred in connection with them until the latter part of May, 1881. While I was at Albany I received a letter from Mr. Ottman which I hold in my hands and which I will read :

SAINT JAMES HOTEL, BROADWAY AND TWENTY-SIXTH STREET,
New York, May 29, 1881.

DEAR SIR: I believe Colonel Ellison mentioned the facts of my case (in brief to you) now on the docket in the United States court, District of Columbia. I am anxious to have you take hold of it. I am willing to give you a contingent fee of \$5,000 on the entering of a *nolle prosequi* and the releasing of my funds now attached in bank. I have no funds, and am from necessity compelled to put the fee in this shape. Please acknowledge the receipt of this.

Very truly, yours,

WILLIAM H. OTTMAN.

Hon. RICHARD CROWLEY.

That is the first communication I had personally with Mr. Ottman. From Albany I answered his letter, saying that in the course of a few days I expected to be in New York City, and that, stopping at the Saint James Hotel frequently, I would see him upon my first arrival in New York. Early in June, I think before the middle of June, I was in the city and stopped at the Saint James Hotel, and Mr. Ottman came to see me. He then stated briefly the facts of his case to me, and I stated to him that I was going to Washington in the course of a short time, that I would make examination of his cases, and that I saw no reason then why I could not accept the cases, but I would not decide the matter until I could make a fuller examination of them. He told me who his attorneys were; that Mr. Carpenter had been his leading attorney, that Mr. Merrick had been one also, and that Mr. William A. Cook, of Washington, was also one of his attorneys, and I think he told me Colonel Corkhill had been also employed, but of that I am not sure. I came to Washington, arriving here on the morning of the 11th of July, 1881. I remained here July 11, 12, and 13, leaving on the evening of the 13th. I devoted those three days to the examination of the case of Mr. Ottman. I found three indictments pending in the district court of the District of Columbia against him, charging him with having stolen about the sum of \$47,000 from the Treasury Department, with having embezzled a like amount of the moneys of the Government stolen from the Treasury Department, and with having received that amount of the funds of the Government knowing them to be the funds of the Government. Those indictments I found had been, by the order of the court under a provision of the Revised Statutes, consolidated into one, and Mr. Ottman had been tried twice upon them as shown by the records of the court. He was not, as I am informed has been testified to before this committee, tried first upon one indictment and then upon another; but he was tried upon the three indictments consolidated into one.

The alleged larceny took place, I think, in June, 1875. The first trial I found had taken place in March, 1876, and occupied several days. I was informed that the jury stood seven for acquittal and five for conviction. The criminal cases then stood over until the next year, when a second trial, which lasted several days, was had in March, 1877, and I am informed, and it appears as of record on a statement signed by eleven of the jurors, and sworn to by one more of them, that upon that second trial eleven of the jurors were in favor of acquittal and one seemed to be undecided whether he was in favor of acquittal or conviction, but refused to find a verdict of acquittal. That was the condition of the criminal indictments. I found, also, from the records of the court that

a civil action had been commenced by the Government against Mr. Ottman in the district court for this District, claiming to recover some forty-seven thousand and odd dollars. That civil action was commenced by Mr. Fisher, who was then district attorney, as appears from the records, and he, through his counsel, demurred that an attachment was granted by the court after the civil action was commenced, and under the practice here a motion was made to vacate that attachment upon the ground that it was upon a tort and that an attachment should not issue except in case of contract. The judge holding the court granted the motion, quashing the attachment. From that order an appeal was taken to the general term of the District, and I am informed that the general term reversed the action of the judge holding the special term and sustained the attachment. This action was commenced in 1876. The decision of the courts was in 1876 and 1877, and nothing appeared to have been done in the civil action after this decision of the general term affirming the validity of the attachment.

I then called upon Mr. Cook (Mr. Carpenter was not here and Mr. Merrick was out of town), and had a brief conversation with him in regard to this case. I had been informed by Mr. Ottman that Mr. Cook had been his attorney, and Mr. Cook so informed me also. That is the first and the last time that I have ever seen Mr. Cook. I see from the newspapers that he states that in my conversation with him I said that I expected to effect a compromise of those cases because of my supposed "influence" with some powers real or imaginary. Mr. Garfield was then President of the United States; Mr. MacVeagh was the Attorney-General, with whom I had no personal acquaintance at all; Mr. Corkhill was the district attorney, who, at that time, I had not seen—an entire stranger to me. I was—I will not use the adjective I was about to use—but in May and June of that year I was trying to return Mr. Conkling and Mr. Platt to the Senate of the United States, and therefore I stood in open antagonism to the President, and could not be supposed to possess much influence with his administration. Without making any further remark on Mr. Cook's statement, suffice it to say in this connection that no such conversation as that which he details with regard to my effecting a compromise of this case, through any "influence," ever occurred. From Mr. Cook I went to see Mr. Corkhill. Colonel Corkhill told me that he had been of counsel for Ottman, and therefore could not take any action on behalf of the Government either in the civil or the criminal cases against him. The courts were not in session at that time, so that I could not go into court and ask for any order with regard to the disposition of the criminal cases for the failure to prosecute; nor could I notice the civil cases for trial and move their trial, the court not being then in session; and Colonel Corkhill having been of counsel for Ottman, suggested that the only course was, that the Attorney-General should appoint some special assistant counsel to represent the Government in those cases.

From Washington I went to Alexandria, and examined the records of the court there. I found that there in the municipal court an action had been commenced against Ottman, claiming to recover this same amount of money, and that that action had been removed into the circuit court of the United States for that district of Virginia, and was there pending. There was on deposit in the German Bank of Alexandria the sum of \$10,000, and the bank had been forbidden by the authorities of the United States to pay that money to Mr. Ottman, who had deposited it there and held a certificate of deposit. At that time, and so far as I know down to the present time, Mr. Ottman was and

has been a stockholder in that bank. He was in 1876, and for years afterwards. That was the condition of those cases.

I remained, as I have said, those three days examining the records of the courts here in the civil and criminal cases, conversing with Colonel Corkhill and Mr. Cook; and also examining the records in the court at Alexandria, Va. Colonel Corkhill, as I have stated, could not act in the matter, having been counsel for Mr. Ottman; the courts were not open, and nothing could be done except to let the matter remain just as it was. I returned to New York and stated to Mr. Ottman the character of the cases as I found them, and said that I was willing to take the chances of going into court and taking charge of his cases to the best of my ability. In January, 1882, a statement was prepared setting forth the condition of the cases pending in behalf of the Government against Mr. Ottman. That statement was signed by Mr. Ottman and transmitted to the Attorney-General. Some time after that—I cannot tell how long, but I think in the month of January, according to my recollection—Colonel Bliss was stopping at the Arlington Hotel, where I was living, and he said to me that he was going to the Attorney-General's office, and I stated to him that Mr. Ottman, whom I was representing in these cases, had made application to the Attorney-General to have the cases disposed of in some way or other, as they had been pending several years; that his petition to that effect was on file, and I asked him if he would not call the attention of the Attorney-General to the petition. He said he would; and he stated to me, either the same day, or very shortly thereafter, that he had done so. The next I heard of the cases was that the Attorney-General had called upon the district attorney, Mr. Corkhill, for a statement of the condition of them, and Mr. Corkhill informed me that he had made a report of the condition of the cases to the Attorney-General. That report I never saw until within the last two or three days.

The CHAIRMAN. It is printed in our record.

The WITNESS. Yes, sir. I have seen it within the last few days. Some little time thereafter, I cannot state how long, the Attorney-General appointed Mr. Bliss special United States Attorney to take charge of those cases. Mr. Bliss informed me of that fact. Mr. Bliss made an examination of the cases, as I was informed through him and also through others, and made a report in writing to the Attorney-General. That report I never saw until last week. Mr. Bliss stated to me that, after a full and careful examination of the cases, he was satisfied that there could be no conviction upon the indictments pending against Mr. Ottman in the district court in the District of Columbia; but that Mr. Wells was of opinion, and he (Mr. Bliss) also thought, that the Government might possibly succeed in the civil suit pending against Mr. Ottman in Alexandria. He said he was unwilling, so far as he was concerned, to recommend to the Attorney-General, or to go into court and recommend to the court, that the criminal indictments should be *nolle prossed* and this civil suit dismissed also, but that if Ottman was willing to allow the Government to receive the amount which it held by attachment in the German Bank of Alexandria, \$10,000 with interest on it, I think, at 3 per cent. from the date of its deposit down to that time, he was willing to recommend, as district attorney, a settlement of the case. I sent for Mr. Ottman and stated to him what Mr. Bliss had stated to me. Mr. Ottman was very much disinclined to accept it; but after some delay he consented to accept it, and authorized me to draw a power of attorney from him to myself for me to carry out that arrangement. I want to say, in this connection, that my own judgment

was and is from reading the evidence which was furnished to me by Mr. Ottman taken upon both of the criminal suits, and from my own experience, having been United States attorney for the northern district of New York for eight years, that no conviction within any reasonable probability, whether Mr. Ottman was guilty or innocent, could have been had against Mr. Ottman upon the criminal indictments. Nor do I think that any judgment could have been recovered against him in either of the civil suits pending either in the District of Columbia in the District court or in the circuit court in Virginia. Mr. Wells, who tried Mr. Ottman twice, and who had charge of both the criminal indictments against him and of the civil suit, is made to say that in his judgment the civil suits could possibly have been prosecuted to success.

The CHAIRMAN. Undoubtedly that was his statement.

The WITNESS. Yes. Now, as counsel for Mr. Ottman, my answer to that is this: Mr. Wells tried this criminal case the first time in 1876, when the jury disagreed. He tried it again in March and April, 1877, when the jury disagreed, standing eleven to one, and he remained United States Attorney for nearly three years after that, and never moved those criminal cases or took a single step in them at all. When the civil suit was commenced by Mr. Fisher, he succeeded to it, and after the general term sustained the attachment, although Mr. Wells was district attorney for three years he never took a step in the civil suits as United States Attorney to recover the moneys, if any, due to the Government from Mr. Ottman. The district attorneys in Virginia, two or three of them, I think, after the commencement of this action in the municipal court, and after its removal under the statute of the United States to the circuit court, appear never to have taken any steps in regard to its prosecution. So that this alleged offense and this alleged right of action accruing against and to the Government in 1875 ran along down until 1882 with no action having been taken in the civil or criminal cases to 1877. I said to Mr. Bliss that it was due to Mr. Ottman that the Government should either prosecute those cases or dismiss them; that while the Government was rich and great, it could not afford to be in the attitude of holding indictments for years over a citizen and holding money which he claimed to be his, and which the Government claimed belonged to it, yet to which it could not establish a title. I said that it was due to Mr. Ottman either to prosecute those suits to final results or to dismiss them, and that, two trials having been had without securing a conviction, there was no probability that after this lapse of time, and when the witnesses were scattered all over the country, a different result would be reached. Mr. Ottman came to Washington and saw Mr. Bliss. I said to Mr. Ottman, "No matter what your views may be of this case—you claim that you are innocent, and that this money belongs to you, and that you are not guilty of this offense; but nevertheless the Government of the United States can hold these indictments against you and these civil actions, and they can bring you up any day of any week of any month of any year, and in my judgment it is better for you to buy your peace if you have to do so, than to have this pending against you, liable to be brought up at any time." After considerable demur he accepted that view and executed a power of attorney, which I think is on file.

The Government never had in its possession the \$19,525 under attachment. That money was seized, part of it in the German bank at Alexandria, part of it in Mr. Ottman's possession, and part of it elsewhere, just exactly where I do not remember now, nor is it material. It was seized by the police officers and handed over to the Commissioners

of the District of Columbia, they being the head, I suppose, of the police force of this District. They kept it in their possession, and it was used as evidence upon both trials against Mr. Ottman. In 1878 or 1879, and after the failure of the second trial in 1877, Mr. Morgan and his associate Commissioner took the \$19,525, sealed it up in a package, took it to Mr. Gilfillan, Treasurer of the United States, and made a special deposit of that package with him; and when this compromise was effected, as has been testified to and as I have stated, I went with Mr. Morgan, the District Commissioner who held the receipt of Mr. Gilfillan, and with Mr. Bliss, and met Mr. Gilfillan in the Treasury Department and this package was brought out. The seals were broken and it contained \$19,525, a deed of trust, and some papers and small articles, the personal property of Mr. Ottman. This was \$19,525 in currency; there was in the German Savings Bank a deposit of \$10,000, made by Mr. Ottman in 1875 or 1876, I forget which year it was now. For that a certificate of deposit was made to him. It bore interest for a short time, and then there was written across the back of it an agreement that the bank was not to pay interest after that. That was the money that the Government had notified the bank officers not to pay while this suit was pending to determine who was the owner of it. When this suit was settled by the Government claiming that they could possibly succeed in the civil suit in Alexandria as against that money, with interest, the interest was figured up, and the principal and interest amounted to about \$12,700, according to my best recollection. Mr. Bliss stated that they did not propose to take a lawsuit, and that while they were willing that Mr. Ottman should have and use the name of the Government to protect his rights in the suit pending by the United States against him and against the bank, they should insist that that amount, \$10,000, with interest from the time of its deposit up to the time of this settlement, should be paid out of these moneys on special deposit with Treasurer Gilfillan, leaving Mr. Ottman to fight this suit in Alexandria as best he might. That was assented to by Mr. Ottman in person. We met, as I have stated, at the Treasurer's office. This package was produced, the seal was broken, and it was found to contain \$19,525; \$12,700 was paid to Mr. Bliss to be deposited to the credit of the United States; the balance was paid to me. I retained my fee of \$5,000, in accordance with the letter which I have read here and placed in evidence, and the balance I paid to Mr. Ottman in New York City, and took his receipt for it.

Q. What was that balance?—\$12,700 paid to the Government, \$5,000 paid to myself, makes \$17,500, and the balance is the difference between that and \$19,525. When Mr. Ottman was in Washington he asked me to loan him \$95, and when the settlement was effected I retained that amount out of the balance and paid the rest to him, and that is his signature at the bottom of that paper. Then that left the suit in Alexandria pending. Before Mr. Carpenter's death, as Mr. Ottman informed me, and as Mr. Coleman, the surviving law partner of Mr. Carpenter, also informed me, this certificate of \$10,000 for the money deposited at Alexandria, had been turned over to Mr. Carpenter in payment, or as security, or both, for services which he had rendered to Mr. Ottman, and was to render in the future in the management of his cases. I called upon Mr. Coleman who was the law partner of Mr. Carpenter, and he produced the certificate stating that it had been sent to him by Mr. Russell Sage of New York City, who claimed to be the owner of it (this was after Mr. Carpenter's death), and that he had instructions to commence suit against the bank at Alexandria to recover the amount of

that certificate. I went with Mr. Coleman and Mr. Ottman to Alexandria. I there saw Mr. Francis M. Smith, whose father before him had been, and who was himself, in my time, attorney of record for Mr. Ottman in that suit in Alexandria, and talked over the matter of adjusting this certificate of deposit.

Q. Was that certificate for the whole amount of the deposit of \$10,000?—A. Yes, sir; just \$10,000. No conclusion was reached. Mr. Coleman commenced suit in the name of Mr. Russell Sage against the bank, and I think also against Mr. Ottman, claiming to be owner of this certificate of deposit and the money which it represented. I went afterwards with Mr. Coleman, twice I think, certainly once, to Alexandria, and saw the cashier of the bank, the attorney of the bank, and Mr. Smith, the local attorney of Mr. Ottman, and we had a consultation with regard to the matter, but failed to arrive at any adjustment of the conflicting claims of the bank and Mr. Ottman and Mr. Sage. The matter stood in that shape until last summer. Last summer I was called to California by matters almost beyond my own control, and was absent for some time during June and July, and while I was absent I understand that this suit of Mr. Russell Sage against the bank and against Mr. Ottman (if it was against Ottman, I am not so certain about that) had been settled and adjusted between the bank and Mr. Ottman, represented by Mr. Smith, and by Mr. Coleman, representing Mr. Sage. I was not present at that settlement, and had no part in it further than I have mentioned already. I am informed by Mr. Ottman, and also in substance by Mr. Coleman, that the basis of that settlement was that Mr. Russell Sage claimed to have bought the certificate of Mr. Carpenter, paying therefor \$6,000, and that he received of the amount of money deposited in Alexandria (upon which the bank did not pay interest except for two or three months) his \$6,000, with, I think, 3 per cent. interest from the time of the purchase of the certificate down to the settlement, that being the amount of interest which the certificate bore on its face; and that the balance of the money was paid to Mr. Ottman.

Q. Mr. Russell Sage obtained \$6,000 with 3 per cent. interest from the time he purchased the certificate of Mr. Carpenter until the time of the settlement?—A. Yes, sir.

Q. And that was deducted from the \$10,000 certificate of deposit?—A. Yes; and the balance paid to Mr. Ottman, as the parties informed me.

Q. Do you know what Mr. Ottman received on that balance?—A. I do not, except that it would be the difference between those sums. I don't remember the exact time of the purchase of the certificate, but the complaint would undoubtedly show it. It was the difference between \$6,000, with the interest added from the time of the purchase of the certificate, and \$10,000.

Q. Did the bank allow interest at 3 per cent.?—A. It did for a short time, and then by agreement between Mr. Ottman and itself it ceased to pay interest after a certain date—the date of the agreement which was written across the face or on the back of the certificate of deposit.

Q. Was the date of that agreement after the time when the money was attached? A. I think it was before that, though I am not certain.

Q. Then the Government did not get any part of the money on deposit in Alexandria?—A. No, sir; the Government retained in this settlement out of the special deposit with Treasurer Gilfillan the \$10,000 which it had sought to attach in Alexandria, with interest from the date of the attachment down to the time of the settlement, the amount

being \$12,700. That, gentlemen, in brief, is my connection with the Ottoman case, and the facts of the case so far as they are known to me. I am now ready to answer any questions which any member of the committee may desire to ask.

By the CHAIRMAN:

Q. Can you explain why you were of opinion that the Government could recover the \$10,000 deposited in bank at Alexandria, but could not recover the \$19,000 and odd held here in Washington, both sums being part of the same transaction?—A. I did not express the opinion that the Government could recover the \$10,000 on deposit in Alexandria. I expressed the opinion that they could not recover that amount.

Q. Well, it was the opinion of Mr. Bliss that the Government could recover the money deposited in Alexandria?—A. The opinion of Mr. Bliss was that they possibly could succeed in the civil suit in Alexandria as against that amount alone.

Q. When did you have the first conversation with Mr. Bliss in regard to this compromise?—A. It was some time in January, 1882, according to my best recollection.

Q. Did Mr. Bliss know anything about the case then?—A. Nothing at all, to my knowledge. It was the first time that I ever talked with him about it, and I had no information or knowledge that he had ever heard of the case before.

Q. Did he state to you that he would call the attention of the Attorney-General to the case?—A. To this petition which Mr. Ottman had presented.

Q. Did you call upon the Attorney-General at all in reference to the case?—A. I have no recollection of calling upon the Attorney-General in connection with the case at all.

Q. Whatever you did with the Department of Justice with reference to the settlement of this case was done through Mr. Bliss?—A. Entirely.

Q. After his first interview in reference to the case with the Attorney-General, at your instance, what did Mr. Bliss report to you as to the condition of things?—A. The substance of it was that he had called the attention of the Attorney-General to the case, and that the Attorney-General had said he would call the attention of the district attorney, Colonel Corkhill, to the matter.

Q. Did you suggest at any time to Mr. Bliss that he should be appointed a special attorney to settle this matter?—A. No, sir; I did not.

Q. Did he suggest to you in any way that he would get that appointment?—A. No, sir; I did not know whom the Attorney-General would appoint. Colonel Corkhill, the district attorney, being disqualified from acting in the case by his previous service as an attorney of Ottman, my simple desire was that somebody should be appointed to go into court on the part of the Government and take charge of the cases; I did not care who it was; it made no difference to me. I expected then to have to go into court with the cases.

Q. You expected to have to represent your client in the courts?—A. I did so expect, and I did represent him in the court.

Q. But at the time you presented the case, through Mr. Bliss, to the Department of Justice, did you present it upon the theory that you were demanding trial for your client in the courts on both the civil and criminal cases, or upon the theory that you desired to have the matter settled outside of the courts?—A. My theory was that I was acting

within the courts and that I wanted somebody to represent the District Attorney, who was disqualified from acting in the cases. And let me say here that if the Attorney-General had not appointed somebody to act in the place of Colonel Corkhill, or to represent him in that matter, I should have gone into court, and, upon the presentation of the facts of the case and the records, I should have asked the court to make an order directing the district attorney to move those cases for trial or dismissal. The civil action could have been noticed for trial.

Q. Did you prepare the petition that Ottman submitted to the Attorney-General, which is dated January 21, 1882?—A. I think not; but I gave direction for its preparation to one of my clerks in my office. I caused it to be prepared.

Q. It was done at your instance as Ottman's attorney?—A. Yes.

Q. Was it your intention, then, to defend this criminal case, and also the civil case in the courts?—A. It was.

Q. Your expectation was to be able to defeat the Government on the trial?—A. I expected either to have the case tried in court or dismissed in court.

Q. Did you demand, or intend to demand, a speedy trial?—A. I did, just as soon as I ascertained that Colonel Corkhill was disqualified; I came here for that purpose; and when I learned that he had been of counsel for Ottman (which I did not learn until I came to Washington in July), then I expected as soon as somebody should be appointed to represent the Government to proceed to the trial of the cases.

Q. In Ottman's petition to the Attorney-General, dated January 21, 1882, he says:

I now respectfully ask you to carefully examine, or cause to be examined, these civil and criminal actions, and if consistent with the public interests, the due administration of justice, and your sense of public duty, that you will direct or authorize the proper district attorneys for the District of Columbia and the eastern district of Virginia to discontinue said civil suits and enter a *nolle prosequi* on said indictment.

That does not seem to indicate that he desired any trial of the cases, but simply asked, in view of the long delay that had occurred, that the suits should be discontinued.—A. I expected, Mr. Chairman, that when counsel for the Government came to examine those cases, and to ascertain that there had been two trials of the criminal indictments, both of which had been failures, that several years had elapsed since the commencement of the civil suit, and that no further action had been taken in that suit since its commencement, he would make up his mind that he could not succeed in the cases, and would himself dismiss them.

Q. Did you ask Mr. Bliss, as special counsel for the Government, to have either the civil or criminal Ottman cases set down for trial?—A. I did not.

Q. Did you not solicit him to compromise the cases outside of court, instead of going to trial?—A. I insisted that Mr. Ottman was entitled to have this indictment *nolle prossed*, and to have this civil action dismissed, upon the ground that the Government had made an utter failure in its attempt either to establish its right to the money or to establish his guilt.

Q. But the Government had never had a trial of the civil suit?—A. That was the fault of the Government.

Q. But it was not yet too late to have a trial of that suit, so far as the Government was concerned?—A. No, sir.

Q. You believed then, as attorney for your client, that the Government was not entitled to any of this money?—A. I did so believe, from

the action which had been taken in the case, and the result of that action, and from the statements of Mr. Ottman.

Q. You believed that the Government could not recover any of this money?—A. I did, and I do now.

Q. Then, instead of compromising the matter and paying the Government a portion of the money, would it not have been better for you to have insisted upon a trial, which, according to your view, would have given you all the money?—A. Possibly not; for this reason, which I stated partially in my direct statement: The Government could try these cases at almost any time it saw fit. It should have tried them before, but it could try them when it pleased. The Government of the United States was rich and powerful. Ottman was poor. If this was his property, the Government had all of his property. He was at the mercy of the Government, and, in my judgment, to buy his peace was better for him under the circumstances than to undergo litigation, civil and criminal, which would probably last through a long period of time, perhaps through years, before it could be disposed of.

Q. Was he released on his own recognizance, or had he given bail?—A. I never saw the bail bond, but I understood that he had given bail in regular form. The records of the court will show that, however.

Q. These cases having dragged along in the courts for so many years, could you not have rightly insisted upon having them set down for trial?—A. Not necessarily.

Q. How long may the Government keep indictments pending?—A. Well, if you will tell me who administers the Government, I will perhaps answer that question.

Q. Mr. Corkhill in this case.—A. Mr. Corkhill was disqualified from acting in the case, because he had been counsel for Ottman.

Q. But he was not disqualified from appointing an assistant?—A. No, sir; he could appoint his regular assistants; but I should doubt the propriety of an assistant appointed by Mr. Corkhill conducting the case, because his action would be the action of Mr. Corkhill. The only course that seemed to me proper was for Mr. Ottman to ask that somebody should be appointed to represent the Government in the matter, and then insist that the cases should be either tried or dismissed. That is what we did, and that was all; and after having the cases tied up for seven years that was our right. Of course, I don't want to testify here as to what I would do or might do, or as to what my processes of reasoning about the case were or might be. I want to give you simply the facts; but if you want me to reason about the case, or to theorize about it, that is another thing.

Q. Did you consult with Mr. Bliss with regard to the preparation of his report?—A. I did not. I never saw his report until last week.

Q. Didn't you know what he had recommended to the Attorney-General?—A. I did not; except as he stated it to me after he had made it.

Q. What did he state to you that he had recommended?—A. As I have already said, he stated that he had reported he did not believe that the Government would succeed in the criminal case, but thought it possible it might succeed in the civil suit.

Q. It was not material, so far as the recovery of the money was concerned, that the criminal suit should be prosecuted at all, was it?—A. No, sir.

Q. So far as that was concerned, the Government might have *nolle prossed* the criminal suit and still have maintained its action in the civil suit?—A. Yes, sir.

Q. And could have succeeded in the civil suit?—A. I think not; that is a matter of opinion.

Q. Well, it might have succeeded in the civil suit, independent of the criminal case, might it not?—A. Possibly. I cannot tell in advance what courts and juries will do.

Q. But it was your opinion that the Government was not entitled to any of this money?—A. That was my opinion, and it is my opinion now, and I base it upon both the criminal trials, upon the results of the action of the juries in those two cases, and the failure of the Government to establish the identity of the money stolen with this money it was seeking to recover.

Q. Did Mr. Bliss tell you that Mr. Wells had said to him that an offer had been made on the part of Ottman by Mr. Elliott, his former counsel, to pay the Government \$32,000 and to take one year's imprisonment in the county jail?—A. No, sir.

Q. Did you ever learn that fact?—A. I learned the fact that such statements had been made, but never from Colonel Bliss; and it is due to Mr. Ottman to say that he denies ever having made any such offer.

Q. But you knew that Mr. Elliott had been his attorney?—A. I did not. I did not know who Mr. Elliott was or is.

Q. How often did you have interviews with Mr. Bliss in regard to the preparation of his report?—A. I did not have any interviews with him in regard to the preparation of his report.

Q. I mean interviews in which he obtained the facts upon which he based the report?—A. I gave Mr. Bliss the evidence taken upon both the criminal trials, and I gave him copies of the indictments. With that exception I did not give him anything. He asked me for the evidence. I think it was not in the district attorney's office, but Mr. Ottman had copies of it in his possession which he furnished me and which I furnished Mr. Bliss. With those exceptions I furnished no papers to Colonel Bliss, according to my present recollection; nor did I have any communication with him in regard to the preparation of his report. When he made the report he informed me of what it was in substance; but the report I never saw until last week.

Q. What course did you then pursue?—A. I sent for Mr. Ottman and brought him here and talked with him about the case, and asked him to go and see Colonel Bliss. He went and saw Colonel Bliss and talked with him about it. Mr. Ottman objected to the settlement, and went back to New York to consult with his wife and friends; and having been absent some days, he came back and said he had concluded to accept a settlement.

Q. Mr. Cook spoke here about a statement to which you have referred, namely, that you had influence with some person or persons who might help you to settle these cases; may he not have had Mr. Bliss in his mind as the gentleman as to whom that statement referred?—A. I cannot tell whom Colonel Cook may have had in his mind. Mr. Bliss was not in the case at that time. That was in July, and Mr. Bliss was not appointed until the February following, and knew nothing of the case at that time, so far as I know, or until January, 1882. What Mr. Cook may have had in his mind I do not know; but as a matter of reasoning I should say that he could not have had Mr. Bliss in his mind in that connection.

Q. It was after that conversation between you and Colonel Cook that Mr. Bliss came into the case?—A. Oh, yes; this conversation was in July, 1881. I came here on the 11th of July, and remained here until the evening of the 13th looking into this case, and it was at that time

that I had the interview with Colonel Cook. Colonel Bliss was not appointed special assistant counsel until the latter part of January or first part of February, 1882.

Q. Had you in your mind the idea of having Mr. Bliss appointed special counsel?—A. Not at all. I had no one in my mind at that time.

Q. Was not Mr. Bliss special counsel in the star-route cases?—A. No, sir; I think not at that time. I think his appointment was made after that time. I think it was in August or September, 1881. This time that I had the conversation with Mr. Cook was in the early part of July, 1881.

Q. So there was no one, then, in the administration that you could have had influence with?—A. No, sir. Mr. MacVeagh, the Attorney-General, was personally a stranger to me. General Garfield was at that time lying wounded. Colonel Corkhill I never had had the pleasure of an interview with; and certainly I could not be presumed to have much influence with an administration that I was engaged in fighting.

Q. What were your relations to Colonel Bliss?—A. My relations with Colonel Bliss have been pleasant and friendly. I have known him eighteen or twenty years.

Q. It has been stated that Colonel Bliss shared a portion of the fee which you were entitled to or received?—A. I received \$5,000 as my fee, and retained the whole of it—did not share it with anybody. I am not sharing my fees.

Q. Did you make any present to Colonel Bliss or to any other person who may have assisted you in this matter?—A. No, sir.

Q. Did Mr. Ottman?—A. I do not know what Mr. Ottman did, but he did not do it with my knowledge or belief.

Q. Then the basis of the compromise, so far as your information went, was that the Government should take the equivalent of the \$10,000 and interest, which was on deposit in the bank at Alexandria, and should release its claim there?—A. Yes, sir.

Q. So as to leave Ottman free to fight it out with the bank and the assignee of this certificate of deposit, and the other creditors?—A. Yes, sir.

Q. And that that was to be in full settlement of all the claim of the Government against this money, and that the criminal cases were to be *nolle prossed*, and the money that the Government had tied up was to be released?—A. Yes, sir.

Q. You received your fee, and deposited the rest of the money with Mr. Bliss to be paid into the Treasury?—A. Yes, sir; \$12,700. I retained my fee of \$5,000, and paid the balance to Mr. Ottman.

Q. When was that final settlement consummated?—A. Along in the last days of May or the first days of June, 1882. It was along at that time that this amount was received from Treasurer Gilfillan, and I paid Mr. Ottman in New York City on the 6th of June, as shown by a memorandum which I have here, which is in accordance with my recollection. The settlement as to the balance of the money which was in Alexandria was made some time last summer in July or August, while I was away on the Pacific coast.

Q. But the money had been paid into the Treasury prior to that?—A. Oh, yes. I suppose it was paid probably the same day it was paid to Mr. Bliss, or the next day.

Q. It appears from Mr. Gilfillan's statement to have been paid into the Treasury June 6, 1882.—A. I have no personal knowledge of the time it was paid into the Treasury by Mr. Bliss. I only know the time it was paid to him.

Q. You paid the money to Mr. Bliss?—A. I did.

Q. And Mr. Bliss at once paid the money over into the Treasury?—

A. I suppose he did. It was the understanding that he should do so.

Q. The amount that you paid Mr. Bliss is the exact amount deposited in the Treasury?—A. Yes, sir; \$12,700.

Q. Were you a member of Congress at that time?—A. I was.

Q. You ceased to be a member of Congress when?—A. On the 4th of March, 1883.

By Mr. MILLIKEN:

Q. You say that Ottman denied having made the offer of \$32,000?—

A. Yes, sir; he denied it to me. In some way, which I cannot now recall, the statement was made to me, and I called Mr. Ottman's attention to it, and he denied ever having made any such offer. Of course, whether he did or not, I do not undertake to say; but his statement was that he never did.

By the CHAIRMAN:

Q. Do you know the exact manner in which the difference between the \$6,000, with interest, and the whole amount of the deposit at Alexandria, was disposed of?—A. I do not. I was not there, and I do not know of my own personal knowledge.

Q. The presumption is that it went to Ottman and his attorneys, is it not?—A. I met Mr. Ottman in New York after my return, and he told me that that suit in Alexandria was settled. I asked him how it was settled. He said that Mr. Sage had received the \$6,000, with interest, and that he (Ottman) had received the balance.

Q. Did he state how much he had received?—A. He did not.

Q. Have you been special counsel for the Government in any other case recently?—A. Not since a year ago this month.

Q. In what cases were you special counsel for the Government?—A. In 1882, I think about midsummer, after the adjournment of Congress, according to my recollection, the Commissioner of Internal Revenue had a conversation with me about arguing what is known as the New York Central Railroad tax case. That was a suit of the New York Central and Hudson River Railroad Company against John M. Bailey, who had been internal-revenue collector in the Albany district, and had there collected from the Central Railroad Company about \$500,000 on account of alleged income taxes. I was then district attorney, and tried the case. The court directed a verdict against us. We appealed, and the Supreme Court reversed the judgment below, and sent the case back for a new trial. We tried it again, and the jury found partly in favor of the Government and partly in favor of the road. I took an appeal to the Supreme Court, and the Attorney-General wrote me a letter and asked me to appear for the Government and argue that case in the Supreme Court. I have not got that letter here, but I have it in my office. I was subpoenaed last evening, and I brought along such memoranda and papers as I could lay my hands upon, and that letter I have not got here.

Q. What was the date of that commission?—A. Some time in midsummer, 1882, according to my recollection. I appeared here, I think, at the October term, 1882. I prepared a brief and argued the case in the Supreme Court.

Q. Did the Attorney-General send you a special appointment, or just a letter requesting you to appear?—A. I think it was a letter asking me to appear. I was the attorney of record in my own proper name,

not as United States attorney, but it was "John M. Bailey by Richard Crowley, his attorney."

Q. You appeared for Bailey?—A. I appeared for Bailey nominally, but really for the Government, Bailey having been a collector of internal revenue, and the Government defending him as its officer.

Q. You were United States district attorney for the northern district of New York at the time the case was tried in the court below?—A. It was tried twice in the courts below. I resigned my office as district attorney to take my seat in Congress at the called session in 1879, so I had ceased to be United States attorney at the time the Attorney-General requested me to argue this case.

Q. Did you receive an appointment to argue this case in the Supreme Court as special counsel, and did you take the oath and receive a commission?—A. No, I think not. It would not have been necessary in that case, you see, because, as I have said, I was the attorney of record in the case.

Q. But you could not be the attorney in the Supreme Court merely because you had been United States district attorney when the case was tried below?—A. No, perhaps not; but I would not care to follow the case up there and argue it as a mere gratuity. I had no desire to do the work unless I was paid for it.

Q. But you appeared in the Supreme Court under a different authority from that under which you appeared in the court below?—A. If my recollection is clear, I think that by an official letter from the Department of Justice, sent by the Attorney-General officially, I was requested to take charge of the case and argue it in the Supreme Court.

Q. Have you a copy of that letter?—A. I have not a copy here, but I have it in my office at home. I went to the Department this morning and tried to find a copy of it, but I was unable to do so, although I found copies of my other letters of appointment.

Q. I call your attention to this from the fact that there has been some question raised as to the manner in which these appointments should be made.—A. Well, that is the way that I think that appointment was made. I was not required to take an oath of office and file it in the Department, as is usually required of special assistant attorneys.

Q. You being a member of Congress at that time?—A. Oh, not for that reason at all.

Q. But you were at that time a member of Congress?—A. I was.

By Mr. MILLIKEN:

Q. But the reason was that you had represented the Government as the attorney of record in the court below?—A. Yes, sir.

By the CHAIRMAN:

Q. You received no compensation from Mr. Bailey, I suppose?—A. No, sir. All my fees in the matter came from the Government.

Q. Bailey was simply the nominal defendant in the case?—A. Yes, sir.

Q. State what services you rendered in the case.—A. Well, I was of course familiar with the case, having tried it twice in the courts below, and having prepared a record bringing it from the circuit court to the Supreme Court. I prepared my brief, which is on file in the office of the clerk of the Supreme Court, with the other papers, and I came here and remained several days in attendance upon the court waiting for the case to be called, and argued it when it was called.

Q. What was the action of the Supreme Court in that case?—A. They sustained the judgment in the court below.

Q. What was that?—A. The amount which the railroad sought to recover was about \$720,000, and the jury found that the Government was entitled to about \$300,000, and rendered a verdict for the railroad company for the balance. Exception had been taken to that finding of the jury, and the Supreme Court affirmed the verdict of the jury and the rulings of the court below.

Q. The railroad company took the case up to the Supreme Court?—A. No, sir; I appealed the case.

Q. The Government was not satisfied with the judgment of the court below?—A. No, sir; and they appealed.

Q. Did you receive any compensation from the Government for your services in that matter?—A. I did. I received \$2,500 and my expenses in coming to Washington to argue the case.

Q. Please look at the statement on page 50 of this Executive Document No. 40, and state whether the item of \$2,500 to which I call your attention is the charge which you made for your services in that case?—A. (After inspecting the document.) I have no doubt that it is. I know that my charge in that matter was \$2,500 and my expenses.

Q. Please look on the next page and state whether you find there a statement of your expense account?—A. I do.

Q. Is that the amount for which your bill was originally rendered, and was there any disagreement between you and the Department as to what the amount of your bill should be?—A. I think there was an item of \$1.65 in my expense account which was disallowed. It seems that in some of my hotel bills there was a charge for some cigars and some whisky, and I think the Department reported that the account was allowed less this charge for cigars and whisky, which they said had no doubt been inadvertently inserted in the account. The bill was rendered to me, and I gave it to some of my clerks to make out my expense account, and I suppose the item got in in that way.

Q. What do you say was the amount of your charge for your services in that case?—A. Twenty-five hundred dollars.

Q. Was that the amount of your original bill?—A. In that case it was.

Q. What time was this case argued in the Supreme Court?—A. At the October term, 1882, I think.

Q. That term began in October and went on right through the year up to May?—A. Yes; but we argued the case in October.

Q. I see that your bill at the Arlington Hotel is dated October 20, 1882. That was probably the time you argued the case?—A. Yes, sir; I know that I had to remain here for several days in attendance upon the court before the case was reached. It was set down for a particular day, but several days passed, perhaps a week, before it was reached.

Q. I see on the next page of this document an account of yours in some other cases, the case of the United States against Reuben Porter Lee, and against Hall. Please tell us about those cases.—A. In the middle of April, 1882, the First National Bank of Buffalo failed. I may state here that my law office for the past three years has been in the city of Buffalo, although my residence is in Lockport. That bank failed, and the Comptroller appointed a receiver of it. The receiver desired me and my firm to act as the counsel. I consented to act as counsel for the receiver, and am so acting yet, in that bank case. Upon an examination of the books, papers, and assets of the bank, it was discovered that serious offenses had been committed by the president and others, and the president of the bank, Herman J. Hall, was arrested. An examination was had before the commissioner, which lasted several days, and I was requested by the district attorney, Hon. Martin I. Townsend,

to represent the Government in the cases. I telegraphed Mr. Townsend that I did not care to represent the Government in any criminal cases, because I had all I wanted to do in civil matters, and did not care to give my time to prosecute criminal cases for the Government gratuitously. In reply, Mr. Townsend informed me that he would request the Attorney-General to retain me as counsel to try the criminal cases growing out of the failure of that bank. On the 22d of May, 1882, I received a letter from the Department of Justice, signed by the Attorney-General officially, a copy of which I hold in my hand, and which reads as follows:

SIR: You are hereby appointed a special assistant to the district attorney for the northern district of New York, to represent the Government in the case or cases against the "First National Bank of Buffalo" and its officers. Such compensation for your services will be paid you as the Attorney-General, at the end of the litigation, shall deem just and reasonable.

Calling your attention to section 366 Revised Statutes, I will thank you to take and transmit to this Department the oath required of district attorneys.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

HON. RICHARD CROWLEY,
House of Representatives.

I took the oath of office some days after that letter was received, and proceeded to act in those cases. I conducted the examination of Mr. Lee, and others, running through two weeks, before the commissioner in Buffalo. I then prepared the case for presentation to the grand jury at the Canandaigua term in June, 1882, and drew the indictments; and I presented the cases to the grand jury, and they indicted Lee and Hall. I moved the trial at the term, and the trial lasted seven or eight days, and the jury disagreed. In the November term, 1882, at Syracuse, I moved the trial of the cases again, and again it lasted seven or eight days. On that trial the jury convicted Lee, and the judge sentenced him to imprisonment for the term of ten years, and he is undergoing that sentence now. I sent in my bill for my services in those cases for \$5,000. The Attorney-General, without any consultation with me, reduced the amount to \$2,500. The newspapers have stated that I received \$10,000 or \$15,000 for my services in that case. The fact is that I sent in my bill for \$5,000, the Attorney-General reduced it to \$2,500, and I received either \$2,100 or \$2,200, the balance being still unpaid, because, as the Department informs me, the judiciary fund is exhausted.

Q. It was in that case and not in the other that the disallowance was made in your expense account, I believe?—A. Probably. I do not remember which case that was in.

Q. There is no other disallowance except that item, is there?—A. I do not remember any other, except the disallowance, or rather the reduction, of my bill from \$5,000 to \$2,500.

Q. I see that in this case your pay was reduced to \$2,500 and that your expense account was \$980, making a total of \$4,380; have you received all of that account?—A. I have.

Q. Then the Government does not owe you anything now in connection with the matter?—A. It owes me nothing except the difference between the \$2,500, which was allowed me for my services, and the \$2,200, I think it was that was paid, there being no money to pay the balance. When we got over to the Treasury Department there was not enough to pay the bill, as they reported, that fund being exhausted.

Q. Please state what you know in regard to the decision of the Comptroller, Mr. Lawrence, which is printed on page 54 of this pam-

phlet.—A. Yes, sir. That illustrates pretty well the way in which some of the matters are managed in some of the Departments. My fee for arguing the New York Central tax case, \$2,500, went through the Treasury Department without any demur. When I sent in my bill for my services in the Hall case, which was subsequently, the First Comptroller, in his wisdom, decided that because I was a member of Congress at the time, therefore I could not draw two salaries from the Government, and I was required to furnish law for the Treasury Department, and I did file a brief to show that a member of Congress was not among the executive officers of the Departments, to whom that statute applied; that members of Congress were not intended to be included by the Congress that passed the law, nor by any subsequent Congress that amended it. Then the Comptroller took that view, and wrote an elaborate opinion, which I have not seen.

Q. That opinion was to the effect that a Representative in Congress is not in any branch of the public service contemplated by section 1765 of the Revised Statutes, by which certain persons in the employ of the Government are excluded from receiving extra compensation or allowance?—A. Yes, sir.

Q. But the services in the cases to which you refer were performed during the time you were a member of Congress?—A. Yes, sir. I think, Mr. Springer, I am not the only member of Congress who has presented bills to the Government for services rendered while he was a member.

Q. Can you name any others?—A. I am informed that *you* presented a bill to the Government for \$10,000.

The CHAIRMAN. That is just where you are mistaken.

The WITNESS. Well, I may be; but I know that there are other members who have presented bills for services rendered while they were in Congress.

The CHAIRMAN. That statement about myself got into the press, but it is a mistake.

The WITNESS. I am very sorry that it is, for your sake.

The CHAIRMAN. I appeared in the case of the United States against the Centennial Exposition, and argued the case there in which a million and a half was involved, and the judgment of the court below was reversed, and the Government got the money; but I have never received a cent for my services.

The WITNESS. I remember that the War Department employed Mr. Conkling early in the war to go to Elmira to try the cases against Haddock, who was convicted; and Mr. Conkling charged \$10,000 for his services in that matter and it was paid. In fact, there are scores of cases where members of Congress have been employed to perform special services for the Government and have been paid.

The CHAIRMAN. As you have called attention to my own case, I will state that I did file a petition in the House of Representatives asking to be allowed to go before the Court of Claims to prove the value of my services, on the ground that I was excluded by the statute from obtaining compensation, unless I was relieved by a special act of Congress.

By the CHAIRMAN:

Q. Were these which you have mentioned here the only cases in which you appeared for the Government during your official service as a member of Congress?—A. Yes, sir.

Q. And the aggregate of your fees in those cases— A. (Interposing.) The aggregate amount allowed me for my services, not including my disbursements, was a little less than \$5,000.

Q. But you were allowed your expenditures in addition to that?—A. Yes, sir. In the bank case my expenditures covered the examination of the books and papers, and assets of the bank for a long period of time, and the Government allowed me to employ a stenographer to report the evidence on the trials, and I think his bill was \$300, or \$400, or \$500.

By Mr. MILLIKEN:

Q. Did you charge the Government any larger fee than you are in the habit of receiving from your other clients?—A. No, sir; I did not. If I ever earned \$5,000 in my profession, and I have been practicing law since May, 1861, I earned it in those bank cases. I did not charge the Government any more than I would charge other clients; and my employment by the Government has not been a source of any profit to me—I mean anything more than I would have received—not even as much as I could have made in my private business.

By the CHAIRMAN:

Q. Do you know whether there was sufficient force in the office of the Attorney-General in this city to attend to those cases in which you were employed?—A. I have no doubt that there was sufficient force; but having tried that tax case twice, the case involving over \$700,000, and being a case of very great importance; I think that the employment of myself by the Government to argue the case here was eminently proper, and I think it was equally proper that the Government should pay me a reasonable fee for my services. I have no doubt that the Department could have taken hold of the case, and gone into court and argued it without my assistance—of course if I had been dead they would have had to do so; but what I mean to say is, that in my judgment, the employment of a counsel, who, as district attorney, had tried the case previously, and who was competent to take charge of it—I think the employment of such a person to follow the case up into the Supreme Court was entirely proper and reasonable.

Now, to close my statement of the cases in which I have been employed by the Government, in January, 1883, the Attorney-General said that he desired to retain me, if I would consent to be retained, to try the South Carolina election cases, and that I would not be required to go to South Carolina to try them until after the adjournment of Congress. He said that the district attorney down there, Mr. Melton, desired some assistance, and that the Department would be very glad to have me go there and help him. After thinking the matter over for some time, I consented to act, and on the 12th of January (according to a letter, a copy of which I have here) the Attorney-General appointed me. Here is his letter:

DEPARTMENT OF JUSTICE,
Washington, January 12, 1883.

SIR: You are hereby employed and retained in the name of the United States to assist Samuel W. Melton, attorney for the United States, in the district of South Carolina, in the discharge of his duty in prosecuting offenses against the election laws of the United States.

Due notice will be given you of the time when your presence in that district will be required, and the amount of your compensation will be such as I shall deem just on consideration of the service you may render. On accepting this employment you will please attend at this Department to take the oath prescribed and receive your commission.

Very respectfully,

BREWSTER,
Attorney-General.

Hon. RICHARD CROWLEY.

When I received that letter I filed the usual oath of office, and at once put myself in correspondence with Mr. Melton. I examined all the letters on file in the Department in relation to these South Carolina election cases, and I prepared a brief in regard to the standing aside of jurors under the practice in South Carolina, preparatory to going down to try those cases. But after my fee in the Hall case had been reduced to \$2,500, and when I discovered that the fund was exhausted so that I could not even have that fee paid in full, I made up my mind that I had rendered the Government about all the service that I cared to render; so I made no charge for what I did in the South Carolina cases, but on the 25th of March I wrote the Attorney-General a letter withdrawing myself from any further connection with those cases, and also from any further connection with the case of the First National Bank of Buffalo.

By Mr. MILLIKEN:

Q. So that for this last service which you rendered the Government in connection with the South Carolina cases you received no compensation?—A. Nothing at all. The papers have been kind enough to say (but I suppose I ought not to complain of that, because something has to be said) that I have received \$30,000 in those cases. I wish I had.

I believe I have now stated fully my connection with the Government service in these matters, so far as I have any present recollection of it.

By the CHAIRMAN:

Q. Were you at any time employed on behalf of persons charged with frauds upon the star-route mail service?—A. No, sir.

Q. Were you applied to by any of the defendants, or persons suspected of frauds in connection with that service, to become counsel for them?—A. No, sir; I cannot say that I was. I think that at one time, though perhaps it is an improper inference for me to draw, a person did desire to employ me as counsel for some of the star-route people, but there was no offer made me of any retainer; I do not know but perhaps I may be doing injustice, but still I think that if I had been willing to accept a retainer at that time it would have been given to me. However, I may be wrong about that. The gentleman to whom I refer is Mr. Bosler.

Q. Did he make you any offer at all?—A. No, sir.

Q. It was merely a matter of inquiry?—A. Yes, sir.

Q. Were you acquainted with John M. Sanderson?—A. No, sir.

Q. Did you ever have any dealings with him at all?—A. I do not know him at all. I never saw him, and should not know him if I should see him now.

Q. Were you acquainted with the Salisburys, who were supposed to have been connected with the star-route contracts?—A. I have met one of the Salisburys here in Washington, but which one I do not know, and I have no personal acquaintance with him, with the exception of a casual meeting.

Q. Did they, or any of their agents or attorneys, solicit you to become counsel for them?—A. No, sir.

Q. Do you know anything about the Parkers?—A. No; I do not know them at all.

Q. Then, as I understand, you have had no dealings, directly or indirectly, with any of the defendants in those star-route cases, so far as you recollect?—A. I desire to state here, to be entirely frank about the

matter, because it has come to me since I have been in Washington this time, and otherwise when you spoke about Sanderson, I should not have known what Sanderson was meant—I desire to state that I have heard that the rumor prevails that Mr. Sanderson was directed to employ me, and that a sum of considerable magnitude—\$20,000—was offered me to take charge of his case. Until last week I never heard of Sanderson, and I do not know anything about him. No such proposition was ever made to me on behalf of any one, nor do I know of any such proposition being made to anybody.

Q. Did anybody come to you representing that he spoke for Sanderson?—A. No, sir; I never heard Sanderson's name until this last week.

Q. And you did not know anything about him, or what relation he had to the cases?—A. Nothing at all.

Q. Did you have any knowledge of the transactions between the Government and the star route contractors pending the suits or prosecutions, or efforts to bring suits or prosecutions, against them in Washington?—A. I heard of this matter in the papers, and knew that such transactions were pending between the parties, and of course I knew of the trials of the persons indicted.

Q. But you had no business relations with any of the defendants, as I understand you?—A. No, sir.

By Mr. VAN ALSTYNE:

Q. How many years were you district attorney for the northern district of New York?—A. Eight years.

Q. Is the criminal calendar of that district large?—A. It is.

Q. Does it cover the general scope of offenses under the statutes?—A. It does.

Q. Then you are necessarily familiar, from your long practice in that district, with the character of the jurors there?—A. Yes, sir; and let me say that I was specially familiar with these bank cases, for I had had a similar case in Oswego, growing out of the failure of a bank and the conversion of its money by the officers, and I had also had another such case in another place in New York.

Q. In stating, as you have stated here, that Ottman denied that he had ever made an offer to pay the Government \$32,000 by way of compromise, you do not mean to be understood, I suppose, that that raises any question of veracity, so far as ex-District Attorney Wells is concerned?—A. Not at all, sir. I simply say that that statement came to me in some way, and I asked Mr. Ottman about it, and he denied it. Of course I am raising no question of veracity; but I think it simply just to Mr. Ottman that his denial of the statement should be mentioned here.

Q. Did you understand the offer to come through the representative of Ottman?—A. If I understood anything about that at the time, it has escaped from my memory. The substance of what I heard was, I think, that it had come from him, but whether directly from him in person, or indirectly through somebody else, I do not now remember.

By the CHAIRMAN:

Q. During what years were you district attorney for the northern district of New York?—A. I was appointed in April, 1871, and resigned in February, 1879.

Q. I wish you would explain for my information the statement with regard to the fees in the northern district of New York from 1873 to 1883, which is set forth in this document which I now hand you.—A. (Referring to the document.) I cannot explain anything later than February, 1879, because I went out of office at that time.

Q. Was there any portion of the fees earned covered into the Treasury during that period?—A. In the District of Columbia and the southern district of New York the district attorneys have a salary of \$6,000. In the other districts outside of those two places the district attorney gets a fixed salary of \$200 a year, the balance of his salary, not exceeding in all \$6,000, being made up by fees. The district attorney is allowed so much per day, \$5 a day for attending courts and attending before commissioners, and he is allowed 10 cents a mile each way. In all those other districts the whole of his salary above the \$200 is made out of fees.

Q. Was there any portion of the fees included in this statement covered into the Treasury as the excess beyond the limit fixed by law?—A. That would not be so. To illustrate, the fees of my office allowed by statute may amount to \$10,000. I make an itemized account of every species of service that I perform for which the law authorizes me to charge a fee, and I send that account to the Attorney-General. He audits it, and transmits it to the pay officer of the Department. That is fees which I have earned; but the Department pays me my \$6,000, and no more.

Q. Then all fees in excess of that remain in the Treasury and do not go out?—A. Yes, sir.

Q. They are put down, however, as the expenditures of the office, as this statement shows. For instance, in 1873 the gross earnings of your office appeared to be \$10,400, and the office expenditures \$4,000.—

A. I had two assistants and a clerk. The assistants were paid directly by the Treasury Department, but the clerk was embraced in the expenses of the office; and there were also included gas and fuel, and they allowed me at one time a stenographer. Of course I cannot tell you, without looking at the voucher, how the items composing that \$4,000 were made up.

Q. What I desired to learn was the practice as to returning earnings in excess of the limit of the fees.—A. We do not receive the fees at all. The whole system of compensation of marshals and district attorneys is, in my judgment, a failure, and should have been abolished long ago. The Government could save hundreds of thousands of dollars every year, in my judgment, if they would pay their district attorneys and marshals fixed salaries, thus doing away with the disposition to make unnecessary fees.

By Mr. MILLIKEN:

Q. Don't you think the clerks of the courts should be paid in the same way?—A. Yes, sir. Some of them are paid in that way now.

Q. You could hardly extend the salary system to the deputy marshals, though?—A. Well, I can see how it would be very difficult. The sheriffs and the county clerks in our State are paid by fees now; but I can see that it would be very difficult to adjust a proper scale of compensation for the deputy marshals.

By the CHAIRMAN:

Q. In addition to the earnings of the marshals and their deputies in criminal cases to which the United States is a party, they must have a large amount of earnings in civil business in which the United States is not concerned at all?—A. They do. That they claim the right to retain as their own, without reporting their receipts to the Government, because the Government has no interest in the cases.

Q. You say they claim the right to retain that money, even if it exceeds the limit of \$6,000?—A. Yes, sir. I say "they"; I mean that I

know that some of them do. I know it has been a matter of controversy between the Department and the marshals and the clerks as to their reporting their fees in bankruptcy cases and applying them in payment of their salaries. I know that some of them claim that that kind of business is a matter of litigation between private individuals with which the Government has nothing to do.

By Mr. VAN ALSTYNE:

Q. From your long experience in connection with the courts in the northern district of New York, how much of the time of the clerk do you think is exclusively employed in the business of his office?—A. It would be a little difficult to answer that. When the internal revenue law was in full force and the bankruptcy law in existence the district attorney and the clerk in that district were exceedingly busy. The northern district of New York, however, is perhaps hardly a fair example to take, because it is one of the largest judicial districts, and contains a larger population than any other—about three million people. It extends from Albany to Buffalo, and from the Pennsylvania line to the Saint Lawrence and the Lakes, and it has a frontier bordering on Canada for a great many miles. The clerk's office of the northern district of New York has been an exceedingly busy office. Of course, now that the internal-revenue law has been largely wiped out, and the bankruptcy proceedings have been entirely done away with, the business of the office is getting down to what may perhaps be called its legitimate basis, as it was before the war; at least it has been considerably reduced.

By the CHAIRMAN:

Q. It is your opinion that the Government might save large amounts of money by providing fixed salaries for marshals and clerks?—A. Yes, sir; although, if I were sitting in Congress now, and were asked to devise a scheme which would be a just one to all the United States attorneys and their assistants and the marshals, I can see that it would be a very difficult thing to do, but at the same time I think it would be a very proper thing to do; and, whenever it is done, the Government will be much better served.

Q. You do not think that we could make the matter any worse than it is now by an attempt in that matter?—A. So far as my personal experience goes, I think there has been a good deal of unjust criticism upon those officers.

Q. I mean as a matter of economy, do you think we could make the matter much worse by an attempt to improve it?—A. No; I do not see how you can make it any worse; I do not see how the doors can be open any more widely than they are under the present system.

Adjourned.

WASHINGTON, D. C., *April 7, 1884.*

HORACE A. WHITNEY sworn and examined.

By the CHAIRMAN:

Question. Please state your residence and occupation.—Answer. I reside in New York. I am assistant cashier of the Treasury.

Q. Were you in the Treasury Department at the time of the theft of money known as the Ottman steal?—A. I was, sir.

Q. State what you know in regard to that transaction.—A. I only know that on the second day of June, 1882, a package of money amount-

ing to forty-seven thousand and sixty-five dollars and some odd change, I think 98 cents, was missing.

Q. Were you in the cash-room at that time?—A. Yes, sir.

Q. Did you see the package that was afterwards brought to the Treasury Department or produced in court?—A. Yes, sir.

Q. State what was the result of your investigations as to the bills found in that package.—A. Well, if I might state something previous to that it would connect with my bringing the notes at the time. At the time we lost that money the \$500 bills that we were using were in the serial numbers of somewhere between 48000 and 60000, the regular numbers. I was the shipping teller at that time. I know that we were very short of \$500 notes, the demand was so heavy. That day I drew out \$350,000 of that denomination together with other denominations. They hadn't enough in the vault to give me the brand-new notes, so they gave me one package that had been out, what we call a made-up package, notes good enough to use. I remember that immediately after the robbery one package contained many notes within a certain number, say seven thousands, and the notes that were handed me to count that were brought from Alexandria were in the seven thousands. Some may have been in the six thousands, but the majority were in the seven thousand.

Q. Was there any paper or other thing about those notes that induced you to believe that they were the identical notes that had been stolen from the Treasury?—A. There was nothing in the package but the notes, that I saw.

Q. Was there anything about the manner in which they were folded, or the numbers, which indicated they were the same?—A. No more than the manner in which they were lost, and the question as to who was supposed to have been connected with the robbery.

Q. Had you made up this package?—A. No; I had made it up originally as a \$50,000 package; I made up the package, however, to ship to the National Park Bank that day.

Q. That was the package that was stolen?—A. Yes, sir. That package was used, taking out \$3,000 and putting in a twenty and five and a two and some change. The package contained \$47,097.65, I think.

Q. Did you find any of the bills lying in the consecutive order in which they had been placed?—A. I don't recollect that; there was a list of them taken at the time they were opened.

Q. Did you testify on the first or the second trial?—A. On both trials.

Q. Do you remember that you testified as to their being in consecutive order?—A. I don't remember to have testified that they were in consecutive order; I do not know that I knew that, and yet I may have done so.

Q. From the investigation you made was there any doubt in your mind that this money really belonged to the Government?—A. Not the slightest; except from the want of ability to swear to any note by its number, I was perfectly satisfied that those were the notes stolen from the Government on the 2d day of June.

WASHINGTON, *April 7, 1884.*

GEORGE W. McELFRESH sworn and examined.

By the CHAIRMAN:

Question. Please state your residence and occupation.—Answer. I reside at 410 Massachusetts avenue, Washington; my occupation is that of an independent detective at present.

Q. Were you employed at any time by the Government in detective work?—A. Yes, sir.

Q. Were you employed at any time by Colonel Cook during the star-route trials?—A. No, sir. I was a metropolitan detective officer for about ten years until about a year ago.

Q. Were you cognizant of any of the facts in relation to the arrest of Howgate?—A. No, sir. The bondsmen of Mr. Howgate employed me to have him watched to see that he did not run away, and I employed two men and had them follow him.

Q. State what you know in regard to the arrest of Ottman?—A. Major Richards sent Mr. McDevitt and myself to New York on the 6th of August, 1875. We arrived there on the morning of the 7th. About one o'clock on the 7th of August we arrested Halleck at the Globe Insurance Office on Broadway, and started to Washington on the 3 o'clock train that same day and arrived here at 11.15, and carried him to the old central guard-house on Louisiana avenue, and locked him up.

Q. Was Halleck at that time a fugitive from justice?—A. I think not. I think he was away on leave of absence.

Q. And it had not been discovered that he was connected with this robbery until after he had gone away?—A. I guess not. I always suspected that he was. Mr. Sargent and I were at police headquarters.

Q. Did you have anything to do with the arrest of Ottman?—A. No, sir. I think he was arrested while I was on my way to New York. He was arrested on the same day.

Q. Did you have anything to do with the arrest of anybody else except Halleck?—A. No, sir; only Halleck.

Q. Did you have any conversation with Halleck in regard to the matter?—A. Yes, sir; I had a talk with him coming over on the cars. During the trip he had his little memorandum book out and was making a calculation, and Mr. McDevitt and myself watched him, and when he got through we took away the memorandum from him and added it up and it amounted to \$47,097.

Q. The exact sum lost?—A. The exact sum. He was dividing it into two parts.

Q. What was the nature of the memorandum?—A. It was a little memorandum book, and we took the book and tore the slip out, and I think it was delivered to Governor Wells, the district attorney.

Q. What did those figures indicate?—A. It seemed to be a division of the amount into two parts. We added it up at the central guard-house; I don't remember all the particulars, but I know that the whole thing added up amounted to about \$47,097.

Q. Did he admit, then, that he had stolen the money, or was he denying it?—A. He did not admit, and he did not deny it. We did not have much talk on the subject coming over.

Q. What do you know about the recovery of this money that was stolen?—A. There was a man, named A. M. Proctor, who has died since, who was a friend of Ottman, and he sent for me on Sunday, and we went over in the Smithsonian grounds and talked, and he told me that he had a good deal of money transactions with Ottman. I asked him, "Bud, have you had anything to do with this Treasury money?" "Well," said he, "I don't know whether it is Treasury money, but I have handled a good deal of his money." I then asked, "Have you got any of his money now?" "Yes," he said. I replied, "You had better let me have it." And he gave me \$2,950, I think it was.

Q. Where did he get it?—A. He said he got it from Ottman. I turned it over to the chief of police, and it was turned over to the property clerk.

Q. How had he come into possession of it?—A. Well, I guess in attending to money business for Ottman. He appeared to be a kind of agent for him. He was a runner for Riggs' Bank. This was on Sunday, while Ottman was under arrest. Proctor came in and asked me if he could have some conversation with Ottman, and I told him yes. In the back part of the room was the washstand, and up at the other end was the water-closet. He went in and had some conversation with Ottman. After a while he went out, and was gone some four or five hours. He came back again, and asked me if he could see Ottman. I told him yes. At this door they had some conversation, and he handed something to Ottman, who walked to the water-closet, and I heard the trap pulled up; I told some one to get Ottman and Proctor out of the room, and I rolled up my sleeve and got part of an order that Ottman had given Proctor on Mr. Portner, the president of the bank in Alexandria, to deliver this package to him, Proctor. On that same Sunday Ottman asked me if I wouldn't take him out to ride; he said that he had got cramped up loafing around the office. I didn't know what his object was at that time. I told him I had no objections if the chief of police said so. Just then the major came out of his office; as Ottman's back was to him, I nodded to the major to say no. I have learned since that Ottman's object was to go to Alexandria to get the package himself. If the major had said yes I would have gone with him, and I suppose he would have knocked me out of the buggy and got away. His object was to go down and get that package.

Q. Was Ottman, at that time, protesting his innocence?—A. I never heard him say much about it. I never had much conversation with him. He and Brown were around the office, and I don't think they were locked up for a day or two.

Q. Do you know how any of this money was found?—A. I went to Alexandria with the chief of police and Mr. Sargent, and others, when we got this box containing \$14,500.

Q. From the examinations or investigations made with regard to this matter, was there any doubt in your mind as to who were the guilty participants in this robbery?—A. Not a particle, in my mind.

Q. Had you any doubt as to whether this was the money actually stolen from the Government?—A. That was my view of it.

Q. Has Mr. Bliss ever asked you to give him any information with regard to this matter?—A. I never spoke a word to Colonel Bliss in my life. I always thought that if Mr. Wells had taken the advice of the chief of police there would have been a conviction of both Halleck and Ottman; that is, by putting Brown on the stand as a witness.

By Mr. VAN ALSTYNE:

Q. Who was the chief of police?—A. Major Richards. I took \$1,050 off Brown when they concluded to lock him up at headquarters. I don't know whether that is in the hands of the property clerk or not; I don't think it has been included in that settlement made lately.

By the CHAIRMAN:

Q. Have you any knowledge of the cause of the failure to convict in those two trials?—A. I think it was the fault of the district attorney more than anybody else.

Q. The evidence was accessible to him to make out a case for the Government?—A. I think that by putting Brown on the stand (and I don't

think there would have been anything wrong in doing so) they would have had a conviction in both cases. Instead of that, Governor Wells sent a man named Hall down to the jail, locked him up with Halleck, and killed the whole case. I think Governor Wells is better at getting indictments than at prosecuting them.

You asked Mr. Sargent if he knew of any further action being taken in the Howgate case. I will state that last summer I was connected with Mr. McDevitt and Mr. Flinder, on E street, and we got out a number of circulars, I think a thousand, by direction of General Hazen, offering a thousand dollars reward for Howgate; and we sent them all over this country and Europe. I think Flinder has got a copy of that circular now.

Q. So far as you know, Howgate has not been found?—A. Not to my knowledge.

Q. Do you know whether any paper from him transferring any of his property in the District has been filed since his escape?—A. Not to my knowledge.

Mr. SARGENT. I think I noticed about a month ago that one piece of property was released to satisfy a mechanic's lien—to satisfy his builder.

Q. That was by order of the court; but I want to know whether any papers have been acknowledged by him showing his whereabouts?—A. I think not.

Q. Did you have any employment from any of the defendants in the star-route cases?—A. No, sir. In the latter part of this last trial I was employed by Mr. Williams to let him know anything I heard here.

Q. How long did you continue in that employment?—A. About four or five weeks.

Q. What was the nature of your duties?—A. Just to give him any information that I might get.

Q. Were you able to give him any information?—I never gave him any; I never bothered myself about any.

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